SENATE—*Monday, July 30, 1973*

The Senate met at 11 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who has given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogancy, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among the nations of the Earth. In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail; all which we ask through Jesus Christ our Lord. Amen.

—Common Prayer.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, July 28, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination under New Report.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under New Report—Environmental Protection Agency will be stated.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Alvin L. Alm of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified about this and previous nominations about which he has not been notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

PULLING TOGETHER PEACEFULLY

Mr. SCOTT of Pennsylvania. Mr. President, on this Monday, I have a word for my colleagues on this side of the aisle. I am reminded that the word for Republican Party in Chinese is "Kung Hê Tang." Interestingly enough, translated it also means, "pulling together peacefully." Therefore, I am hopeful, during this week, that we on this side of the aisle, as the "Kung Hê Tang" party, which word, by the way, is the origin of the American slang phrase "gung ho," can all pull together peacefully and cooperate with the majority, so that at the end of the week we will have something to show for it, and can be understood in plain English by the American people.

ORDER FOR ROLLCALL VOTES ON AMENDMENTS TO THE FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

Mr. MANSFIELD. Mr. President, I anticipate that amendments to the unfinished business will be made, and I ask unanimous consent that the votes on those amendments, if they are to be rollcall votes, occur beginning at the the hour of 2:30 p.m.

The ACTING PRESIDENT pro tempore. Is it that there will be no votes before 2:30 or that amendments that are still pending will be voted on beginning at 2:30?

Mr. MANSFIELD. There will be no rollcall votes if the Senate grants its consent to my unanimous-consent request.

The ACTING PRESIDENT pro tempore. Until 2:30.

Mr. MANSFIELD. And the rollcall votes would start at 2:30, but other kinds of votes would occur in the meantime.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. STEVENSON) is recognized for not to exceed 15 minutes.

THE WATERGATE MATTER

Mr. STEVENSON. Mr. President, President Nixon has refused to release his tapes of recorded conversations not only to the Senate Select Committee, but also to the Watergate Special Prosecution Force headed by Archibald Cox within the Department of Justice. He has now ignored subpenas from both the committee and Mr. Cox, and is forcing the committee and Mr. Cox to go to court—and Mr. Nixon emphasizes the Supreme Court—in order to resolve these impasses. The result is delay. The result is also a confrontation between Mr. Nixon and Congress and a confrontation between Mr. Nixon and his own branch of the Government.

These confrontations would be avoided if the President honored the commitment he and Attorney General Richardson made to Congress and the Nation a few months ago. In his address 3 months ago today, announcing Mr. Richardson's nomination, the President said he was giving Mr. Richardson "absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters," including "the authority to name a special prosecutor for matters arising out of the case." The President said he knew Elliot Richardson would be "fearless in pursuing the case wherever it leads."

In his testimony during the Senate Judiciary Committee's hearings on his nomination, Mr. Richardson acknowledged his "absolute authority" from the President and said he was passing on full authority to the special prosecutor, who turned out to be Mr. Cox.

In two exchanges of letters with me, in testimony before the Senate Judiciary Committee, and in guidelines submitted to the Senate, Mr. Richardson exercised his authority from the President to give the Senate certain explicit assurances about the duties, responsibilities, and authority of a special prosecutor in the Watergate affair:

In his May 17 letter to me, Mr. Richardson stated categorically that the special prosecutor "will have access to all relevant documents."

In his letter to me of May 21, Mr. Richardson stated that—

The special prosecutor, not the Attorney General, will determine what documents may be relevant to his mission.

And in his final set of guidelines submitted to the Judiciary Committee on May 21, Mr. Richardson stated that the special prosecutor would have "full authority" for "reviewing all documentary evidence available from any source, as to which he shall have full access."

It was upon Mr. Nixon's word and Mr. Richardson's assurances that the Senate Judiciary Committee approved, and then the Senate confirmed, the nomination of Mr. Richardson as Attorney General and gave approval to the independent investigation by Mr. Cox.

During the Senate debate just prior to Mr. Richardson's confirmation I said:

It is upon the understanding contained in these documents, the record before the Judiciary Committee and the revised guidelines offered by Mr. Richardson, that the investigation will now proceed. I am hopeful the Senate will now approve Secretary Richardson's nomination and the appointment of Archibald Cox, and that the investigation will proceed. If so, it will be upon the assumption that, the Senate's advice and consent given, the rules and the central personalities will not be changed by the executive branch.

By denying Mr. Cox access to the tapes, Mr. Nixon has changed the rules. He has breached his contract with the Senate. He is not granting Mr. Cox the promised "full access" to "all documentary evidence" from "any source." He is betraying the trust of the Senate, of his own Attorney General and the special prosecutor who accepted the office upon the assurances of full authority.

I am sickened by the President's disdain for the orderly processes of the law. He does not seem to care about his own solemn assurances. They are made one day and are inoperative the next.

The President has now cut himself off from the people. He does not answer their questions. He has cut himself off from the Congress. He spurns requests for plainly relevant evidence. And he has cut himself off from the special prosecutor and his own Attorney General.

It was upon the special prosecutor that I pinned most of my hopes for an orderly and thorough investigation leading to truth and justice. Now the President is clearly obstructing justice. He is covering up the coverup. He has forced a confrontation with the judicial, as well as the legislative branch. By placing himself above the law and beyond accountability for his own words and actions, he threatens Congress with the choice of either confessing the bankruptcy of the system, by doing nothing, or of commencing impeachment proceedings. If the President had an honorable alternative—truth, vindication, and a quick conclusion for this unhappy chapter—the public has a right to assume he would take it. That he has failed to take that course can only lead the public to fear that it is not open to him.

If the President could only put the Nation's interest first, he would honor his word and cooperate with Congress and the Justice Department, so that truth might be known, justice done, and the ugly matter closed. Instead, he puts his own defense first and considers his defense best served by delaying actions in the courts. In the meantime, the investigations will drag on and on toward inconclusive and untimely results. And public suspicions will continue to grow.

I implore the President to keep his word to the Congress, his Attorney General, the special prosecutor and the American people.

By refusing to release his tapes of recorded conversations about the Watergate case, Mr. Nixon has provoked a confrontation with the Congress and with the administration's own special prosecutor, Mr. Cox.

These confrontations would be avoided if the President honored the commitment he and his Attorney General made to the Congress and the Nation.

In announcing his nomination of Elliot Richardson as Attorney General on April 30, the President told the Nation that he was giving Mr. Richardson "absolute authority to make all decisions bearing upon the prosecution of the Watergate case." This authority included the appointment of a special prosecutor.

Prior to his confirmation by the Senate, Mr. Richardson stated in an exchange of letters with me and in guidelines submitted to the Senate that the special prosecutor would have full authority for reviewing all documentary evidence available from any source, and that he would have full access to such evidence.

Mr. Nixon has shown his disdain for the orderly processes of the law. He does not seem to care about his own solemn assurances. They are made one day and are inoperative the next.

Mr. Nixon is covering up the coverup. If he had an honorable alternative—truth, vindication, and a quick conclusion for this unhappy chapter in our politics—the public has a right to assume he would take it. That he has failed to take that course can only lead the public to fear that it is not open to him.

Mr. President, I ask unanimous consent that the following documents be submitted at this point in the RECORD:

My May 3 letter to Mr. Richardson, cosigned by 28 Senators;

Mr. Richardson's May 17 response to that letter, addressed to me;

My further letter of May 18 to Mr. Richardson;

Mr. Richardson's May 21 response; and

The final set of guidelines, entitled "Duties and responsibilities of the Special Prosecutor," which Mr. Richardson submitted to the Senate Judiciary Committee on May 21.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 3, 1973.

Hon. ELLIOT L. RICHARDSON,
Attorney General-Designate,
Department of Justice,
Washington, D.C.

DEAR MR. RICHARDSON: As Attorney General you would immediately be faced with an unprecedented task of restoring public confidence in the integrity of the Federal government. We know you share our concern that justice prevail in all questions of official misconduct and that the public receive speedy assurance that an impartial investigation of the so-called Watergate Affair will be conducted thoroughly and relentlessly.

The Senate has called for appointment of an "independent" prosecutor. The true independence and impartiality of the prosecutor is essential. You have the power to make such an appointment. But a prosecutor is not made independent by virtue of an adjective. Neither his selection from outside the Justice Department, nor his approval by the Senate assures independence and a truly thorough and impartial investigation. That depends upon the character of the prosecutor and his authority, powers and resources.

We trust you to select for this position a man of unquestioned integrity, the highest professional ability and the tenacity with which to get the job done. We also expect you to make the scope of his inquiry broad enough to encompass all illegal conduct arising out of the conduct of the President's recent campaign and the growing evidence that justice has been obstructed in conjunction with that illegal activity. But that is not enough. The minimal powers and resources of a thoroughly independent prosecutor must include:

(1) The power to convene and conduct proceedings before a special grand jury, to subpoena witnesses, and to seek in court grants of immunity from prosecution for witnesses;

(2) The power and financial resources with which to select and hire an adequate staff of attorneys, investigators and other personnel, answerable only to himself;

(3) Assurance that the funds to pay for the services of staff and prosecutor will be continued for the time necessary to complete the investigation and prosecute any offenders;

(4) Assurance that the prosecutor will not be subject to removal from his duties except for the most extraordinary improprieties on his part;

(5) Full access to the relevant documents and personnel of the Department of Justice and all other offices and agencies of the Executive Branch; and

(6) Assurance that the prosecutor would be able to cooperate with any appropriate congressional committees.

The law appears to give you the authority to confer these powers, resources and assurances upon a special prosecutor. If the need arises for legislation to insure these requisites of independence and thoroughness, we will cooperate to that end in every way we can.

In closing we reiterate our trust in you, our confidence in your ability and our hope that forthright action now by the Executive will be enough to resolve these trying matters to the satisfaction and benefit of the nation.

Sincerely,

COSIGNERS OF STEVENSON LETTER TO RICHARDSON

Adlai E. Stevenson, III, Harold E. Hughes, Stuart Symington, Gaylord Nelson, Edmund Muskie, Philip A. Hart, Thomas F. Eagleton, James Abourezk,

Lloyd Bentsen, Dick Clark, Joe Biden, William Proxmire, Alan Cranston, and Lawton Chiles.

Hubert Humphrey, John Tunney, Walter F. Mondale, Lee Metcalf, Walter D. Huddleston, William D. Hathaway Abraham Ribicoff, Harrison Williams, Frank Church, Quentin Burdick, Mike Mansfield, Jennings Randolph, Thomas J. McIntyre, J. Bennett Johnston, Jr., and Claiborne Pell.

THE SECRETARY OF DEFENSE,
Washington, D.C., May 17, 1973.

Hon. ADLAI E. STEVENSON III,
U.S. Senate.

DEAR SENATOR STEVENSON: Thank you for your letter of May 3 and for your expression of confidence in me. I agree wholeheartedly with your observations about the need to restore public confidence. I agree that this end will be served by the appointment of an independent Special Prosecutor with unquestioned integrity, the highest professional ability and great tenacity.

In examining both the record of the Senate Judiciary Committee hearing on my nomination and the points articulated in your letter, I am struck by how close we actually are in our approach to the definition of the Special Prosecutor's role. The detailed description of the Special Prosecutor's authority which I have today sent to the members of the Senate Committee on the Judiciary meets, I believe, all the points enumerated in your letter:

His scope of authority will extend beyond the Watergate case to include all offenses arising out of the 1972 Presidential Campaign and all allegations involving the President, members of his staff and other Presidential appointees;

His powers will include the handling of all prosecutions, grand jury proceedings, immunity requests, assertions of "Executive Privilege" and all decision as to whom to prosecute and whom not to prosecute;

He will have the authority to organize and select his own staff, responsible only to him, and to secure adequate resources and cooperation from the Department of Justice;

He will have access to all relevant documents;

He will handle relations with all appropriate Congressional Committees; and

He will be subject to removal only by reason of extraordinary improprieties on his part.

Some misunderstanding seems to persist on the subject of the relationship of the Special Prosecutor to the Attorney General. I have repeatedly stated that the Special Prosecutor must be given the authority to do his job independently, thoroughly and effectively. He will possess a truly unique level of independent authority within the Department of Justice. But it is also critical, in my view, both in the interests of the effective performance of the Department of Justice as a whole and the speedy and efficient support for the Special Prosecutor's mission, that the Attorney General retain that degree of responsibility mandated by his statutory accountability.

The laws establishing the Department of Justice give the Attorney General ultimate responsibility for all matters falling within the jurisdiction of the Department of Justice. Under the law, there is no way to handle prosecutions under the applicable Federal criminal laws outside that Department. A change in the law making the Special Prosecutor an independent agency, which I think would be wrong and harmful on the merits, could in any event be very complicated and time consuming. The outcome of any effort to change the law would be uncertain, the investigation would be disrupted, and prosecution seriously delayed.

Further, only the Attorney General can effectively insure the cooperation of other personnel within the Department of Justice (and within other agencies of the Executive Branch) and thus assure the marshalling of additional resources, including professional investigatory and prosecutorial staff, when the Special Prosecutor needs them. The Attorney General is responsible for allocating the overall resources of his Department consistent with the proper pursuit of its various responsibilities. Without being able to draw on these resources and the various sources of authority which are vested in the Attorney General as chief legal officer of the Nation, any investigation by a Special Prosecutor might be severely hampered.

The approach which I have developed is designed to provide the maximum possible assurance to the public that truth and justice will be properly, thoroughly and effectively pursued. As I have said before, the public will have an insurance policy comprised of four clauses:

The integrity of the Attorney General as reviewed and confirmed by the United States Senate;

The integrity of the Special Prosecutor as reviewed and affirmed by the United States Senate;

The terms and conditions articulated in my detailed description of the Special Prosecutor's authority and in testimony before the Senate Judiciary Committee, which assure the authority and independence of the Special Prosecutor; and

The investigation of the "Ervin Committee" as established by Senate Resolution 60.

With best regards,

Sincerely,

ELLIOT RICHARDSON.

U.S. SENATE,
Washington, D.C., May 18, 1973.

Hon. ELLIOT L. RICHARDSON,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: Your letter to me of May 17 is positive and represents a long step in the direction of an "independent prosecutor" in the Watergate episode.

It is my hope that with a clarification of certain points in that letter and your statement to members of the Judiciary Committee that remaining doubts about the impartiality of the investigator can finally be resolved and that justice delayed can now proceed with dispatch and the government can get on with all its business.

Specific points about the prosecutor's functions which you make in your May 17 letter and statement to the members of the Judiciary Committee are still consistent with your statement of May 7 that the investigation would be conducted "in the Department of Justice" and that as Attorney General you would retain "final responsibility" for all matters within the Department.

It would be helpful if at your earliest convenience you could explain the following points in your May 17 letter:

1. You state that the prosecutor's authority will extend to "all *offenses* arising out of the 1972 presidential campaign and all *allegations* involving the President, members of his staff and other presidential appointees." It is unclear whether you intend that the prosecutor will have the authority to investigate allegations of official misconduct of a *non-criminal* nature on the part of Executive branch personnel. The Congress has the constitutional responsibility for making the laws and overseeing the manner in which Executive branch personnel execute those laws. The Congress is the most appropriate body to investigate and make judgments about instances of official misconduct of a non-criminal nature. The Senate is exercising that responsibility. Is it your intention that the prosecutor's functions include the investigation of such non-criminal misconduct?

2. Your letter states that the prosecutor's powers "will include the *handling* of all prosecutions, grand jury proceedings, immunity requests, assertions of 'Executive privilege' and all *decisions* as to whom to prosecute and whom not to prosecute." Thus, the only decision-making power to which you explicitly refer concerns questions of whom to prosecute and whom not to prosecute. Is it the Administration's intention to reserve the decision-making responsibility on all such questions as convening grand jury proceedings, seeking in court grants of immunity for prospective witnesses and passing upon whether present or former Executive branch personnel can properly invoke "Executive privilege"?

3. You state that the prosecutor "will have the authority to organize and select his own staff." Does that authority include the authority to select staff members not now employed by the Department of Justice? What financial resources will be at the disposal of the prosecutor with which to retain the services of any such staff members outside the Department of Justice? And will you assure that the personnel and other resources of the Justice Department are at the disposal of the Prosecutor, except in cases where his use of personnel would unduly interfere with other activities of the Justice Department?

4. You state that the special prosecutor "will have access to all *relevant* documents." Is it your intention to reserve the right to determine what is relevant?

5. You state that the special prosecutor "will *handle* relations with all appropriate congressional committees." Is it your intention to reserve the right to control the access of the prosecutor to committees of the Congress, including the furnishing of information to such committees? My own strong conviction is that both justice and the truth will best be served by a prosecutor free to cooperate with both the Executive and the Legislative branches and to help coordinate their potentially conflicting investigatory activities.

6. The most serious doubt left lingering by your letter and oft-repeated statements is that by some law the Attorney General must retain the "responsibility" or final authority. You opposed a law to remove any such conflict between your statutory duty as Attorney General and your duty to the people as their chief law enforcement official. In the past, Attorneys General, including the acting Attorney General in this very matter, have resolved that conflict by disqualifying themselves. Your failure to do so in favor of an independent prosecutor raises no doubts in my mind about your integrity, but many doubts about your freedom to act. You are after all, an agent of the President and also a servant of the public. Those roles are not inevitably harmonious. Why do you refuse to disqualify yourself in favor of a prosecutor who can serve the people with a singleness of purpose?

Without a resolution of these questions it could be as difficult in the future as it has been in the recent past to find a man of the highest professional attainment and character to serve as prosecutor. In the meantime, delay eats like acid at the public trust and the cause of justice.

With the resolution of the questions raised by this letter and in the hearing of the Senate Judiciary Committee, I would hope your

confirmation as Attorney General would proceed rapidly. At the same time, the prosecutor's investigation of the Watergate episode could proceed and in harmony with the investigation by the Senate Committee. If that does not happen, the doubts and suspicions will linger, partisan politics will intrude, the investigations will be disorderly, and the integrity of the Presidency impossible to restore for many years. I, therefore, look forward hopefully to your early response.

Sincerely,

ADLAI E. STEVENSON III.

THE SECRETARY OF DEFENSE,
Washington, D.C., May 21, 1973.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your letter of May 18. I certainly share your hopes that any remaining doubts about the impartiality of the independent investigation and prosecution, to be handled by Archibald Cox, can now be finally resolved. Hopefully, as you so aptly point out, justice delayed can now proceed with dispatch and government can get on with all its business. I have just given members of the Senate Committee on the Judiciary a somewhat revised version of the guidelines under which the Special Prosecutor would operate. A copy is enclosed for your information.

In response to the specific questions raised by your letter, let me make the following points.

1. While the Special Prosecutor's functions would focus primarily on the investigations and prosecution of criminal offenses, he may in the process uncover improprieties or irregularities of a non-criminal kind. He would be free to take whatever action with regard to such improprieties or irregularities as he deemed appropriate, including disclosing them publicly and reporting them to other authorities for their action. There will inevitably, of course, be considerable overtap with the Ervin Committee's investigations, whether or not prosecution is sought in specific cases.

2. It is not my intention to reserve decision-making responsibility on any of the matters enumerated in the description of the Special Prosecutor's duties and responsibilities, as to which he is given full authority. Thus, all decisions as to grand juries, assertions of executive privilege, and seeking grants of immunity will be made by the Special Prosecutor, in a manner consistent with applicable statutory requirements.

3. The Special Prosecutor will have authority to select staff members not now employed by the Department of Justice. The Special Prosecutor will have all the financial resources that he will reasonably need for all his activities, including funds with which to hire non-departmental personnel. I will assure, as the guidelines make clear, that the personnel and other resources of the Department will be at the disposal of the Special Prosecutor, to the extent he may reasonably require them.

4. The Special Prosecutor, not the Attorney General, will determine what documents may be relevant to his mission.

5. The Special Prosecutor will be fully free to make all decisions relating to his dealings with Congressional Committees. I will not control the Special Prosecutor's access to any committee.

6. Having provided the Special Prosecutor with a charter which assures his total operational independence from the Attorney General, together with the resources necessary to carry out his mission effectively, I see no need to "disqualify" myself. I have no personal stake in this matter other than to see that justice be done swiftly, thoroughly and fairly. I hope that the selection of former Solicitor General Cox for the position of Special Prosecutor makes my determination in this regard amply clear.

I regard the questions you have raised as fair and responsible and I have tried to answer them in that spirit. I trust that the Senate and the Department of Justice can and will cooperate in this mission of enormous public importance. I will certainly do everything in my power to see that this occurs.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON.

DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor—There will be appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys; and

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

STAFF AND RESOURCE SUPPORT

1. Selection of Staff—The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. Budget—The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. Designation and Responsibility—The personnel acting as the staff and assistants of the Special Presecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

Continued Responsibilities of Assistant Attorney General, Criminal Division—Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all the duties currently assigned to him.

Applicable Departmental Policies—Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and polices of the Department of Justice.

Public Reports—The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of Assignment—The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

A COMMENTARY ON WATERGATE

Mr. HELMS. Mr. President, I simply wish to make note of comments earlier in this Chamber by my friend, the distinguished Senator from Illinois (Mr. STEVENSON). I am sure that the Senator's comments will be publicized throughout the country by the news media: I suppose that, as customary, such reports will not be accompanied by anything to represent what might be called the "other side," offering a contrasting perspective.

I do not know what the Presidential prerogatives are in this matter, discussed with such finality and absolute certainty by the Senator from Illinois. I assume that they will be decided by the courts, which I think is the only proper forum for such determinations. But as a part of the background that might otherwise be

ignored I have decided to read into the RECORD at this time a letter I received the latter part of June, bearing date June 19, 1973, from a boyhood friend of mine in Monroe, N.C. He is now a rear admiral in the U.S. Navy. He has had a distinguished career. He is now stationed in Norfolk, Va., and he is deputy chief of staff, Supreme Allied Commander of the Atlantic Fleet staff.

His name is James Wilson Nance, but we always knew him as "Bud" Nance. I received this letter in June, Mr. President. I telephoned my boyhood friend, "Bud" Nance, and asked him, if it ever became necessary, if I might make public disclosure of what he had written, and he said, "By all means. If it will help my country, do it."

Mr. President, lest anyone feel that "Bud" Nance is a man who fits into the cynical frame of reference of "military brass," let me say quickly that he is no such thing. I grew up with him, and from a small boy he was a person of immense character and integrity. It is in that context, Mr. President, that I want to read his letter, and, as the lawyers say, res ipsa loquitur—it speaks for itself. He wrote:

DEAR JESSE: I have written you three letters in the last couple of months and have torn each of them up. I have written you on areas where I think we are wasting money in the military, our strategic posture and our boyhood together. Each time I have felt I would rather discuss these subjects with you in person. However, there is one subject I would like to put in writing to you. The subject is Watergate. Naturally, I have an extremely limited knowledge on the subject. However, I can definitely back the President on one of the subjects he has put forward and that was national security.

My first job as a Rear Admiral was as Deputy Director for Operations—National Military Command Center. This is the place the press calls the "Top Secret War Room" in the Pentagon. Here, we acted as the operations center for the President, SecDef, and the Joint Chiefs. We were required to stay up to the minute on every diplomatic and military operation in the world. When any of the senior civilians or military leaders wanted to give orders to our forces, it was done through us. I was there during 1970 when so many things were leaked to the press that were definitely to the detriment of national security. In fact, I feel they were treasonous. I will list a few for you:

a. During our initial moves into Cambodia, we conducted air strikes into the Southern areas of NVN. These strikes were to stop massed Communists troops from moving against the flanks of our troops as they moved against the Communist sanctuaries. These strikes and their proposed intensity were not announced to anyone. They were not known to but a very limited group. The entire operation was announced in the New York Times within hours after they began. The publication in the Times required us to stop the strikes and, I am sure, cost us lives of many of our people.

I continue reading the letter:

b. I had advance knowledge of the Cambodian operation. I read articles in both the Washington Post and New York Times that showed they knew too. However, I don't think they knew the exact date. The articles they published, I am sure, gave the Communist good indications of what was coming. I am *sure* our operations would have been much more successful had the press not known.

c. About three times each day, we sent statistics on the Cambodian operation to the White House. I remember once I sent some data over that was in error. These data made us look quite bad but it was what we thought was correct. We had a correction from Saigon, and we in turn corrected our input to the White House within an hour after our original submission. Would you believe the incorrect data came out in the next edition of the Washington Post! It was leaked by someone who wanted to make us look bad.

Then my friend wrote:

I could go on and on, Jesse, but I think you can see from these few examples the problem the President was facing. I am confident, there was a group who were so intent on making the President look bad and our actions in VN fail that they were committing treason. I am equally sure there are some people now who will go to any lengths to see the President fail.

Then he closes on a personal note.

Mr. President, the point of this is that all these pious declarations about the President, all these charges that he has been some kind of a madman sitting down in the White House, all these declarations that he has no right to withhold anything, perhaps can be put in a proper perspective if, somewhere, somehow, sometime the other side can be told.

Now, I am frank in saying I hope that the President will win his confrontation in the courts. Future Presidents of the United States will suffer harassment if he does not win, and I think he will win, and after that I anticipate that the President will release such tapes and other information that may be of public importance.

I simply say that there are two sides to this thing. The President of the United States, I should think, has the same right that every other citizen in this country has—the presumption of innocence until proved guilty. The fact is that day after day he has been tried and convicted in the news media and in other forums in this country, and that, Mr. President, to me is another disgrace of 1973.

Thank you, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under this previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. MANSFIELD) laid before the Senate the following letters, which were referred as indicated:

AMENDMENT OF SMALL BUSINESS ACT

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting the administration's views on S. 1672, to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators (with an accompanying paper). Referred to the Committee on Commerce.

REPORT ON EXCESS DEFENSE ARTICLES DELIVERIES

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on excess defense articles deliveries, for the third quarter of fiscal year 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

LIST OF REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, submitted during the month of June, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION FROM FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend section 1114 of title 18 of the United States Code to make the killing, assaulting, or intimidating of any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions a Federal criminal offense (with an accompanying paper). Referred to the Committee on the Judiciary.

INTERNATIONAL LABOR ORGANIZATIONS CONVENTION AND RECOMMENDATION

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, texts of ILO Convention No. 135 and ILO Recommendation No. 143 (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF COMMISSIONER OF EDUCATION

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting pursuant to law, a report of the Commissioner of Education on the Administration of Public Laws 874 and 815, for the fiscal year ended on June 30, 1971 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ENTITLED "PUBLIC HEALTH AND WELFARE CRITERIA FOR NOISE"

A letter from the Acting Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Public Health and Welfare Criteria for Noise," dated July 27, 1973 (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A resolution adopted by the council of the county of Maui, Wailuku, Hawaii, praying for the enactment of legislation to return the Island of Kahoolawe to the people of the

county of Maui and the State of Hawaii. Referred to the Committee on Armed Services.

A resolution adopted by the Board of Directors of the National Tribal Chairman's Association, Washington, D.C., relating to a realinement policy in regard to future Indian policies and programs. Referred to the Committee on Interior and Insular Affairs.

A letter from the firm of Sundlum, Tirana & Scher, of Washington, D.C., in the nature of a petition, relating to the proposed construction in the State of Alaska of a pipeline. Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 2058. A bill to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, and for other purposes (Rept. No. 93-359).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 2283. A bill to amend the Communications Act to clarify the intent of Congress regarding regulation of CATV and broadcast pay television. Referred to the Committee on Commerce.

By Mr. MANSFIELD (for himself and Mr. METCALF):

S. 2284. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Jeanette Rankin. Referred to the Committee on Post Office and Civil Service.

By Mr. HUMPHREY:

S. 2285. A bill for the relief of Miss Chandrika Jayasekera. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2286. A bill to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HART:

S. 2287. A bill to supplement the Federal Trade Commission Act by amending it to increase competition, promote interstate and foreign commerce, prevent unreasonable restraints on commerce and the commercial working of technology advancements, to protect the freedom of employment for scientists and engineers, and for other purposes. Referred to the Committee on Commerce.

By Mr. PROXMIRE:

S. 2288. A bill to regulate closing costs and settlement procedures in federally related mortgage transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BROOKE:

S. 2289. A bill for the relief of Sister Mary Theodora. Referred to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2290. A bill to amend the Social Security Act to provide for partial general revenues financing of benefits under title II thereof, to permit individuals covered under certain other retirement programs to elect not to be covered under social security, and to provide for the financing from general revenues of the health insurance programs established by parts A and B of title XVIII of such act. Referred to the Committee on Finance.

By Mr. CURTIS (for himself, Mr. HRUSKA, Mr. FANNIN, Mr. GOLDWATER, Mr. HELMS, and Mr. SCOTT of Virginia):

S.J. Res. 142. A joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2283. A bill to amend the Communications Act to clarify the intent of Congress regarding regulation of CATV and broadcast pay television. Referred to the Committee on Commerce.

Mr. BEALL. Mr. President, I am today introducing legislation to preserve our free system of television and encourage new electronic services to expand on and complement these present services. My bill, the Preservation of Free Television Act of 1973, would require the Federal Communications Commission to make certain that the future development of pay TV will not reduce or impair the amount or quality of free television to the viewing public.

Mr. President, in the past 25 years, communications technology has leaped ahead making the wonders of the 1940's relics of the past. Without any doubt the most significant development in communications for the vast majority of our citizens and others throughout the world has been the advent of television. Through its magic, millions of people have been entertained and informed by viewing events that none would have hoped to witness 25 years ago. For the initial investment in a television receiver and the few dollars needed each year to supply power, the average viewer gets a ringside seat at events which make history. World renowned entertainers, championship sporting events, theater, movies, public affairs programs and indeed coverage of events the world over are commonplace on free TV today.

The fact that these programs are free, Mr. President, is ever more important today at a time when inflation is pinching so many pocketbooks. To many, the television set offers many hours of entertainment that cannot be afforded elsewhere. Many of our less affluent citizens can afford a television set where they cannot afford vacations, trips to movies or stadiums or to other events where the cost is prohibitive to them. It is a form of recreation and entertainment that is available to virtually all our citizens.

The bill I am introducing today would direct the FCC to make certain that this present situation is preserved in the future when developments in pay and cable television might make it possible for programing now seen at no charge to be taken out of the free system and placed on a pay system. This bill would allow cable and pay systems to develop, and offer to those who wish to pay, new programing not now regularly seen on free television. I believe that protection is going to be needed for the future and I believe the public wants this protection for the present system.

There is no question, Mr. President, that pay television has a great future in this Nation. There are now dozens of events and shows which do not appear regularly on free TV and which many members of the public will gladly pay to see.

Under this proposal pay TV will be able to develop its own new programing and develop its own audience. It will complement and add to the present free programing that hopefully will be continued.

Cable TV will also be able to grow steadily under this proposal. This bill will not change in any respect the present operation of cable television. Cable TV is a service which has brought home viewing to millions who were without television before. My home in western Maryland is one of those areas and is well serviced by an efficient cable system. Under this legislation, cable will be able to retransmit programs from free TV broadcasts, just as it does today. If the cable system wants to, it can, under this bill, tie in with pay television and offer, for more money presumably, a more diverse selection than what is available on free television. My bill would not interfere with the great service provided to Americans by cable television.

Mr. President, in conclusion, let me say that I believe this bill will benefit all concerned. It will give the FCC needed direction in dealing with the problems of television in the future. It will preserve for millions of Americans access to free television programing of a quality and quantity now enjoyed.

It will provide for the orderly development of pay television and allow pay systems to create new programing that will be available to those who want to pay for it.

It will confirm the place that cable holds in the present system and allow cable systems to expand and grow in conjunction with pay television.

Mr. President, I ask unanimous consent that material in connection with this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAPITAL COSTS OF A WIRED NATION ARE PROHIBITIVE

The 1968 report prepared for the President's Task Force on Communications Policy, the most recent authoritative study available, estimates that it would cost $123 billion to wire all the 100 million television homes projected for the early 1980's. This would be equivalent to spending $25,000,000 a day for the next 12 years.

Today even the $123 billion is much too low an estimate:

(a) The report did not consider new FCC requirements for two-way capability and access channels, conservatively estimated to increase costs by about another $20 billion.

(b) It was based on 1967-1968 costs and annual inflation of 4% will add about another $90 billion over a 15-year period.

These two items alone almost double the estimated costs—to about $230 billion, more than one-half the national debt.

Moreover, much of the components in the wired nation will require replacement every

generation—each 15 years—which means that if the country were wired by 1985, most of the $230 billion plant would shortly thereafter have to be replaced, at newly inflated costs.

Recognizing the enormity of these costs—even at 1968 figures—the report to the President concluded that it was economically unfeasible to wire the entire country and that a more realistic objective would be to wire 50% of the homes—those where the population density is greatest—which it concluded could be accomplished for about $8 billion. Other studies show that if as few as 25% of the homes were wired, cable pay television could outbid free television for its most attractive programs, with the result that those not reached by cable and those unable to pay the subscriber fees would lose the service they now receive free.

Aware that private investment cannot possibly provide funds of the magnitude required for a wired nation, the suggestion has been made by some that Federal assistance—direct grant or low interest loans—be used to help finance a nationwide system. These suggestions raise the issue of "national priorities"—should the Federal Government use funds urgently needed for important national goals to subsidize a wired nation. The attached table, taken from the most recent U.S. Government Budget, shows proposed expenditures totalling $232 billion over the next 10 years for the vital national programs listed, including pollution control and abatement, energy research, mass transit development, low and moderate income housing, education, health research, among others. The total projected expenditures over the next ten years for all these vital programs ($232 billion) approximate the costs of the wired nation alone.

THE BUDGET OF THE U.S. GOVERNMENT, FISCAL YEAR 1974

[In billions of dollars]

	Fiscal year 1974	Estimated, 1974–84
Space research and technology	3.1	31.0
Rural electrification, housing and water and waste disposal programs	.7	7.0
Pollution control and abatement	2.1	21.3
Mass transit development	.5	4.9
Aid for low- and moderate-income housing	2.03	20.3
Community planning, management and development (including OEO, water and sewer facilities, urban renewal, model cities, etc.)	2.6	25.9
Education (including revenue sharing, child development and emergency school assistance programs, etc.)	6.3	63.0
Support for biomedical research (primarily for cancer and heart disease)	1.7	16.9
Training health manpower	.7	7.1
Construction of health facilities	.2	1.9
Prevention and control of diseases	.5	4.7
Consumer safety	.2	1.9
Law enforcement and justice	1.9	18.8
Energy research	.8	7.7

	United States	Maryland
Total number of homes	67,475,900	1,262,700
Number of homes with television	65,101,280	1,232,590
Percentage of homes with television (percent)	96	98
Number of homes with cable connections	6,033,840	59,830
Percentage of homes with cable connections (percent)	9.3	4.9
Number of homes with pay TV connections	29,000	0

BLACKOUT NOW: PAY TV LATER?

(By Robert J. Samuelson)

Ask Bob Cochran about football blackouts and he will give you a short lecture.

"There are too many spoiled people who think they're owed everything that's available," says the National Football League's director of broadcast. "We don't owe anybody anything. We owe our teams the protection of selling their tickets at home . . ."

The blackout: It's one of the great issues of the times. On football Sundays, it probably enrages more people than high meat prices, gasoline shortages and Watergate-stained politicians all put together.

It's also one of the great mysteries of the times. Last year the NFL sold 96 per cent of its seats. That doesn't satisfy the football owners. They recall that pro football wasn't always a national obsession. And they cling to the blackout like a security blanket.

Is that all there is to it? Is that the only reason the NFL maintains its bearhug on the blackout? A lot of people don't think so. They suggest another motive for the NFL's obstinacy. It's the Great Unmentionable of American sports and media: Pay TV.

Pay television, like a dark figure in the closet, has been lurking on the edge of American broadcasting for at least two decades. It's finally coming out, and, when it does, pro football could be one of the great beneficiaries.

The NFL will never admit this. Its commissioner, Pete Rozelle, is a shrewd man. To mention pro football and pay television in the same breath would kill the courtship before the marriage. It would destroy the very argument that the NFL is advancing for preserving the blackout—the fear that fans will abandon the stadium for the comfort of their living rooms.

Others aren't so reticent.

PROFITS AND LOSSES

Testifying before a Senate subcommittee last year, John A. Schneider, president of the CBS Broadcasting Group, expressed the networks' fears that football games might ultimately end up exclusively on cable television. "In the language of football, I recommend that this committee clearly rule that passing professional football games to CATV is offside and illegal," he said.

"Pay TV is clearly the issue," says one congressional aide. A senior official at the FCC puts it this way: "The NFL knows that once the public gets its lollipop (over-the-air broadcasts of home games), it can't be taken away."

Even the NFL's Cochran indicates that pay TV has its potential attractions. Asked about the practical possibilities of cable TV for pro football, he dismisses the thought with a wave of the hand. Pay TV (which is really just a variant of cable TV)? Well, he admits, "then you've got an argument . . ."

The owners of football teams aren't innocents; most are independently wealthy businessmen or professionals. However genuine and deep their love for the game, they aren't opposed to making money. Pro football may have once qualified as a quasi-public form of charity, but it doesn't anymore. Although most team financial records aren't public, the available information indicates that the teams are profitable—and comfortably so.

The NFL Players Association last year estimated that an average team has total revenues of $5.6 million and an operating profit—before taxes and interest on debt—of $1.7 million. At least two teams, the Green Bay Packers and the New England Patriots, have public shareholders and make their financial results public. They are not on the edge of poverty. Last year, the Packers had an after-tax profit of $480,203 (their worst year since 1965) and the Patriots had a profit of $545,313. As the Patriots (3 wins, 11 losses) show, football is one of the few businesses where you can succeed without being good.

But good businessmen are always looking to the future. NFL owners can expect their revenues from gate sales—where ticket prices will gradually rise—and from the networks to increase steadily if not spectacularly. The only prospect for a major breakthrough is pay TV—in essence, a massive extension of the stadium. It's a prospect for which any sound businessman would want to wait. It's not hard to see why. For the first time, pay TV is more than an abstraction. Some background:

Last year, the Federal Communications Commission approved new regulations for cable television designed—so the commission said—to allow CATV to expand into the nation's major cities. Cable television is already a $400 million industry, serving 6.5 million homes (about 10 percent on the country's TV households), and with the FCC's rules, it could get much, much bigger.

Cable TV is the vehicle for pay TV. Subscribers pay a monthly fee (usually $5 or $6); but after that, they get everything—weather service channels, stock prices, local programming—free. Pay TV is something else; it's an extra channel of programs—such as first-run movies or exclusive sports events—that can be received only by subscribers who pay a separate charge. The "pay TV" channel would be one of the open channels of the CATV system, whose coaxial cable can carry 20 or more television channels.

By the end of the year, there may be more than 100,000 homes receiving this kind of pay TV. But no one, including the NFL, knows quite what to expect from pay TV. Its destiny is a quagmire of uncertainties, to be shaped by more rules from the FCC, the possibility of congressional legislation, and the unpredictable reaction of the American public.

Granted then, the future is fuzzy. But if pay TV matures, it could be immensely profitable for professional football. It's easy to play with figures. Consider metropolitan Washington, the nation's 10th largest television "market" with approximately 3 million people. There are 950,000 "television homes." Suppose half of those homes subscribed to a cable system. Suppose, then, that one-third of these homes decided to buy Redskins' home games at, say $2 per game. With seven home games (and a $2 price), that totals more than $2 million, a large part of which would surely be paid to the Redskins for the rights to their games. The $2 price isn't unreasonable; in fact, it might be low. As long ago as 1964, an experimental pay television system in Hartford charged $2 for prize fights.

AMERICA'S SPORTS MANIA

To succeed, however, cable TV and pay-TV will clearly have to capitalize on America's sports mania. The new television entrepreneurs understand this. In New York, home games of the hockey Rangers and basketball Knicks are already offered on regular cable TV to attract subscribers. In the future, popular games probably won't come so cheaply; they'll be limited to pay TV.

"Our research indicates that obvious (sports) interest is largely confined to the cessionaires, and sometimes, local govern-Home Box Office (a 70 per cent-owned pay TV subsidiary of Time, Inc.) recently told a pay TV seminar. "Our research also makes it pretty unmistakably clear that the ultimate go, no-go decision in the family on subscribing to this kind of service (pay TV) is made by the male head of the household. Thus, while the whole family enjoys the movies, uncut and uninterrupted, the sports events may or may not be likely to tip the scales of decision-making in the family."

Although started just this year (and now serving only about 12,000 subscribers in eastern Pennsylvania), Home Box Office has already purchased sports packages from pro basketball's New York Nets, Milwaukee Bucks, Boston Celtics and Cleveland Cavaliers; hockey's New York Raiders and Cleveland Crusaders; and baseball's Cleveland Indians.

Home Box Office executives approached five or six NFL teams this year and got a cordial reception—until the teams were apparently asked by the commission's office to suspend any pay TV discussions. According to a Home Box Office spokesman, "The commissioner's office is in the middle of a pretty tough fight over (blackout) legislation and hearings . . . They're not really looking for another problem."

If it is ever to explore the tantalizing prospects of pay TV for home games, the NFL needs the current blackout. This is more than a matter of practical politics; it's also a legal necessity. Under the existing FCC rules, pay TV systems are barred from broadcasting any type of sports event that has been seen on local, over-the-air television during the previous two years—and chances are this two-year period will soon be lengthened to five years. Although the rules—from a legal point of view—are still a bit murky, it's likely that "home" and "away" games will be considered separate types of sports events.

This means that once the Redskins—or any other professional football team—begin showing their home games on over-the-air television, the team may not be able to switch to pay TV for at least five years (during which time home games couldn't be broadcast). So putting the home games on television wouldn't simply be an experiment; it would be a legal precedent, and, as a practical matter, would probably rule out forever the possibility of selling the games to pay TV.

THE ANTITRUST EXEMPTION

Although Cochran doesn't think the NFL owes anyone anything, there are a lot of congressmen who feel otherwise. During the last session of Congress, at least 20 different bills were introduced which would have modified existing sports broadcasting practices.

Most students of the game, including Cochran, trace football's phenomenal rise in popularity to TV. If that's so, Congress might rightfully claim a small debt of gratitude. Back in 1961, Congress gave the football owners something that just about every businessman in America would like to have: an exemption from the anti-trust laws. The NFL desperately needed the exemption. A U.S. District Court judge had ruled that the teams could not bargain together (that is, as a league) with the television networks without running afoul of the anti-trust laws.

Even if Congress hadn't provided the exemption, there still would be football on TV, but each team would have to negotiate separately with local stations or the networks. Presumably, the teams in the bigger cities (with large advertising audiences) would receive bigger packages, while weaker teams in smaller cities would get less. And, taken together, it's probable that the teams would not do as well as they have by bargaining with the networks as a single unit on a take-it-or-leave-it basis.

In any case, the exemption became law in 1961, and the rest is history. In 1960, the 14 NFL teams received $3.1 million together for their television rights, today, the network package reportedly comes to $47 million annually or about $1.8 million for each of the 26 teams. TV revenues now account for about one-third of pro football's total.

The medicine being proposed—either for the NFL to swallow voluntarily or to be forced down its throat by legislation—seems mild enough; some might reasonably complain that it is too mild. The bill offered by Sen. John Pastore (D-R.I.), chairman of the Senate Subcommittee on Communication, wouldn't automatically lift the blackout. Only if a game is sold out 48 hours before kickoff—and Pastore has indicated he's willing to haggle over the time period—would there be local television. If there's no sellout—even if 99 per cent of the seats are sold—there's no local TV. Last year, according to the NFL, 82 of the 182 regular-season games would not have been affected, because they weren't sold out (even though 96 per cent of the seats were sold).

The NFL isn't buying this idea.

A COUNTERPROPOSAL

After mulling it for six months, the league told Pastore this spring that it feels as kindly toward his proposal as, say, Sam Huff used to feel toward Jim Brown. But to prove that he is a reasonable man, Rozelle made a counterproposal. He would be willing to:

Provide local television of the Super Bowl (a concession made last year) and

Consider lifting the blackout in the Hartford-New Haven area once the New York Giants move to the Yale Bowl late this season. (Connecticut fans have always been able to view the Giants' home games, and, under the NFL's proposal, New York would remain blacked out—even when the Giants are at Yale.)

Pastore isn't buying. So now it's a contest to see who understands the Congress better.

From a public relations standpoint, the NFL clearly has problems. No longer can it claim that modifications of the blackout will cause short-term financial harm; Pastore's bill—which requires the prior sell-out before all television—makes that argument virtually impossible, so the NFL isn't pushing this theme. Now, the NFL contends that the game's intangible livelihood—the wild, scrambling masses of a packed stadium that provide on-the-spot excitement—is threatened, because not all the ticket holders will show up if they can watch the game on television.

NO-SHOWS

This is the so-called "no-show" problem. The NFL says that it will not only smother the game's vitality, but also result in economic harm to people who live on stadium attendance—parking lot owners, hot dog concessionaires, and sometimes, local governments and stadium authorities which take a cut of the concessionaire income.

There are such creatures as no-shows. Last year, according to the NFL, 624,000 people bought tickets but didn't take their bodies to the game. That's about 6 per cent of total ticket sales (about 10 million).

But it's also true that about one third of the "no-shows" occurred during the last two games when the weather turned especially cruel, or when a team's dismal record had confirmed its mediocrity, or when a crucial game for a playoff berth could be seen on television.

These defections occurred without televising the home games, and there are lots of people, including Pastore, who think that the NFL's fears about soaring numbers of no-shows are wildly exaggerated. "These tickets don't go for pennies," says Pastore. "They go for big dollars. If you're a devotee of football, you like to see the real action."

The concessionaires—often firms like ARA Services or the Canteen Corp., an ITT subsidiary—aren't likely to win much sympathy. And it's dubious that many congressmen will be shaken by the distant spectre of unemployed, part-time hot dog vendors. The unfortunate middlemen are the cities and counties which own the stadiums—and which aren't collecting enough from the teams to pay off the debts. "We love the teams, but we are subsidizing them," one Kansas City official told Pastore's subcommittee last year. Some local officials have opposed lifting the blackouts and it's a tough position to take. They're saying that they've spent so much money to keep the teams happy that they can't afford to let the fans—whose money it ultimately is—watch.

All this may make the blackout issue look simple, but there are a few complications. Pastore's bill also covers pro basketball, hockey and baseball, and—as a result of the current FCC rules—involves the ultimate viability of pay TV.

Pay TV advocates argue that they can actually increase the amount of televised sports available to viewers. They contend that many professional teams—which don't regularly have sellouts and which aren't nearly as profitable as pro football—won't permit the televising of home games on "free TV" for fear of destroying gate attendance, but that they might put the games on pay TV for two reasons:

Because the pay TV audience is smaller, the threat to the home gate is less.

There's more money in it for the team.

By this logic, almost everyone is better off. The games would be available on some type of TV, and many teams' financial position would be improved, enhancing their ability to bid for top players and, thus, raising the quality of competition.

This is pay TV's pitch; it may ultimately turn out to be so much propaganda, but it should be given a chance to succeed or fail on its own merits—rather than be killed by legislative or regulatory fiat. That means a change in the current FCC rules, which, combined with Pastore's legislation, would effectively prevent pay TV from ever bidding for the home games of many pro teams. Once a team has lost its local blackout for even one game—as a result of a local sold-out game being telecast regionally or nationally over the network—the rules would prevent the team from offering any of its games to pay TV—even those games that aren't sold out.

You don't have to be against pay TV—which may ultimately prove a good way of widening viewers' television choice—to be against the current blackouts. No pro league should be able to use its bargaining power, which stems from anti-trust immunity granted by Congress, to impose a local blackout on sold-out games that are being televised nationally or regionally. The NFL is clearly betting that Congress won't be able to bestir itself to modify the blackout. Inertia is a powerful force. The House has done nothing yet, but last week Pastore easily pushed his bill through the Senate Commerce Committee.

The senator is betting that the NFL doesn't understand Congress. "I am not," he says carefully, "in this for the exercise."

[From the Washington Post, May 10, 1973]

INDIANS LEAD BASEBALL INTO PAY TV

(By Dave Brady)

Major-league baseball has taken a small but fateful step into pay TV, the next gold mine of electronics.

The Cleveland Indians made extensively unnoticed history on April 21, when their home game with the Boston Red Sox was transmitted by cable television exclusively to customers in such Pennsylvania communities as Allentown, Bethlehem, Wilkes-Barre, Mahanoy City and Hazleton. It was the first time ever that a major-league game was carried on pay cable TV.

The Indians contracted to show home games this season with Home Box Office Co. of New York City—which shortly will be 80 percent owned by Time, Inc.—with the approval of baseball commissioner Bowie Kuhn.

In the next week or so, a town named after Jim Thorpe; another, Lansford, where the first cable television system in the country was built, and Lehighton-Palmerton will be added to the network, which will then represent 100,000 potential customers.

Presently, most of them subscribe to systems that for $4.50 a month pick conventional television programs from about 12 stations and feed them into mostly moun-

tainous terrain where signals otherwise would be difficult to pull in. Receivers in homes are converted for an installation fee.

In addition to that service, the Home Box Office firm offers exclusive sports events and current movies for another $6 a month. This system also requires a converter. Box Office now has 11,000 subscribers.

It has signed a five-year contract for the rights to American Basketball Association games since beginning operation in November and has bought the rights for showings outside the New York City area for most events in Madison Square Garden, including the Knicks and Rangers. Home Box Office also has contracts with the World Hockey Association and club deals with the Boston Celtics and Milwaukee Bucks.

Monday night the service carried a fight from Felt Forum in the Garden. Wrestling and roller derbies are on the schedule. The Westminster dog show also was televised and John Barrington, Home Box Office vice president, was asked about the appeal of such an event in the coal-mining towns.

"Our research shows that people like variety," Barrington said. "We researched the response to an Indians-Red Sox game and an ABA game we carried on viewed 114 customers in Hazleton.

"We got a pretty positive reading on the first Indians-Red Sox game the night before, but on Saturday night the ABA game drew 61 of the 144 viewers, or 42.4 per cent, and the baseball game 32, or 22.2 per cent.

"Of course, it was not a baseball attraction of great interest at this time of the year, while the ABA contest had continuity going for it as a playoff game.

"Of the programs picked up from conventional stations by the other cable systems, only 'Hawaii Five-O' and a special, 'Man Without a Country,' outdrew the basketball game on our outlet. We outdrew 'Maude' and a National Hockey League game.

"Most pay cable systems around the country show movies not available on conventional, or home TV, but we are unique in getting so much sports. We find that the family votes for movies but Dad makes the decisions and he likes sports, thus a combination makes more sense.

"Some nights we show two sports events or two movies, or a mix. We are on the air from about 7 p.m. to 11 p.m. We recently showed movies such as 'The French Connection' and 'Dirty Harry.'"

The indications are that the Indians are not getting rich as baseball's pioneers on pay cable TV, with the system collecting only $66,000 a month.

"I would say the Indians are getting peanuts now because of our limited income," Barrington said. "It is rather expensive to bring their games into Pennsylvania."

Bob Brown, public-relations director for the Indians, said from Cleveland, "I don't know how far the telecasts of the Indians' games will go; I doubt if it lasts. The Indians have been on a few times; the Cleveland Cavaliers (basketball) and Cleveland Crusaders (hockey) quite a lot.

"One deal made sense (for basketball and hockey); one (for baseball) did not. There are many aspects; financial is only one of them." Brown declined to elaborate.

Baseball has beaten profootball to pay cable doubtless recalling that football teams once settled for as little as $125,000 a season individually before selling their TV rights as a league-wide package. For the first year on that basis, each NFL club got $332,000; now it is up to $1.5 million. In 1973, the Redskins will get $125,000 just for their radio rights. In 1964, they brought $32,000.

Barrington says, in answer to criticism that pay cable is siphoning sports attractions from free, or home TV: "Most events are not being seen now, despite so much expansion. Less than 30 percent of all sports are shown on any kind of television."

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2286. A bill to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication plus additional material accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 14, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill "To authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes."

We recommend that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The bill authorizes the Secretary of the Interior to acquire lands, waters and interests therein, within a area depicted on a map on file with the Department, to be known as Big Thicket National Biological Reserve. The Reserve, as depicted on this map, is 67,150 acres, most of which is in private ownership. The bill provides that the Reserve may not include more than 68,000 acres.

The Big Thicket of East Texas contains eight different biological habitats, ranging from savannah, to bald-cypress swamp, to upland mixtures of American beech, southern magnolia, white oak and loblolly pine. This biological crossroads is unique in the United States. Changes in elevation from 400 feet on the north to a few feet above sea level on the south, as well as changes from well-drained to swampy areas, and from fertile soil to intrusions of less fertile soil types, account for the variety of plant communities in the Big Thicket area. In addition to its extraordinary diversity of flora, the area contains a wealth of animal life, and magnificent specimens of individual tree species. The larger mammals include the Texas white-tail deer, red and gray fox, racoon, ringtail, mink, otter, skunks, opossum, bobcat, mountain lion, armadillo and on occasion, black bear. Three out of four species of insectivorous plants occur there. Over 300 birds have been listed for the Big Thicket, including the American egret, roseate spoonbill and the relatively rare red-cockaded woodpecker. The ivory-billed woodpecker, which was the largest woodpecker in North America, may survive in the area. The Thicket also contains the largest known specimens of American holly, black hickory and planer tree, as well as 40 wild orchid species, some found nowhere else.

The scientific resources of Big Thicket are outstanding, not only because a variety of biological communities are in close proximity, but because of the ecologic interplay between species. Explanation of these scientific values will be a major part of the interpretation by the Park Service of the Reserve. In addition to its scientific interest, the area is also one of great natural beauty, including park-like beech and magnolia stands, virtually impenetrable "thicket" areas, and picturesque bald cypress-water tupelo swamps.

The Big Thicket once comprised several million acres, but it has been greatly reduced by logging, clearing for agricultural uses and oil field operations, and more recently, vacation home subdivisions. It is now divided into strips and blocks of ecological islands and these islands are steadily being encroached upon.

Interest in preserving the Thicket as a part of the Park Service began before the Second World War, and Congressional interest has been manifested since the 90th Congress. We have studied the area to determine which of the remaining parts of the Thicket would be suitable for inclusion in a unit of the park system intended to preserve and interpret the biological values of the Big Thicket. Specifically, studies of the area were made in 1965 and 1966, and in April 1967, the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, found that "The Big Thicket, with its great variety of vegetational types, its magnificent specimens of individual tree species, its diversity of bird life . . . and its unusual animal communities, is of national significance." In October 1972, the Board reaffirmed its position and endorsed the establishment of the area as a Big Thicket National Biological Reserve.

After review of the current status of the lands and waters in the Big Thicket, we are now proposing a Big Thicket National Biological Reserve, consisting of 7 units and encompassing outstanding representative sections of the remaining Thicket and neighboring ecosystems. The principal purpose of the Reserve would be to preserve key areas for scientific study, rather than to provide solely for outdoor recreational opportunities. Development of the area for visitor use would consist mainly of access roads to the edges of the units, trails, interpretive facilities, primitive campsites and boat launching facilities so that visitors could explore the Reserve from the numerous streams, rivers, and bayous. In preserving the area for a scientific purpose, the Big Thicket National Biological Reserve is similar to the proposed Big Cypress National Fresh Water Reserve now before Congress, one of the purposes of which is to protect the unique natural environment of the Big Cypress area "from further development which would significantly and adversely affect its ecology". It is also similar to the joint federal-state effort at the Ice Age National Scientific Reserve in Wisconsin (16 U.S.C. 469d *et seq.*), which was created to protect, preserve, and interpret nationally significant values of Wisconsin continental glaciation, including moraines, kettleholes, swamps, lakes, and other reminders of the ice age.

The seven areas we are proposing for inclusion in the Reserve, and their approximate sizes, are as follows. Descriptions of these areas are set out in an attachment accompanying this report.

Unit	*Acreage*
Big Sandy	14,300
Hickory Creek Savannah	668
Turkey Creek	7,800
Beech Creek	4,856
Neches Bottom and Jack Gore Baygall	13,300
Beaumont	6,218
Lance Rosier	20,008
Total	67,150

Under the terms of the proposed bill, owners of improved property acquired for the Reserve could retain noncommercial residential rights of use and occupancy for 25 years,

or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. Hunting, fishing and trapping on lands and waters under the Secretary's jurisdiction within the Reserve will be permitted, in accordance with applicable state and federal laws, except that the Secretary may designate zones where, and periods when, no hunting, fishing or trapping may be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. In addition, the bill authorizes the acquisition of the Reserve without purchase of oil, gas and other mineral rights. It is not our intention to acquire existing oil and gas leases or to acquire any other oil and gas rights.

It is expected that, based on June 1973 prices, total development costs will be approximately $4,572,000, of which $4,221,000 would be expended during the first five years following enactment. These costs will be primarily attributable to a visitor center, interpretive shelters, comfort stations, nature and hiking trails, boat launching facilities, maintenance unit construction, rehabilitation and restoration of a pioneer farm in the Turkey Creek Unit, parking areas, and access roads.

Annual operating costs will range from $94,000 in the first year to $853,000 in the fifth year following enactment. A man-year end cost data statement is enclosed.

Estimated land acquisition costs are expected to be $38,000,000. Of the land to be acquired, 66,987 acres are in private ownership. 25 acres in state ownership, 8 acres are owned by the City of Beaumont, and 130 acres by the Lower Neches Valley Authority. Under the terms of the bill, lands belonging to the state or a political subdivision of the state could be acquired only by donation.

At the present time we anticipate substantial new 1975 funding for the Land and Water Conservation Fund, which would be used to acquire lands for the Reserve, and we hope to approach full funding for this important program. Assuming this occurs, we can move ahead aggressively in the land acquisition program for Big Thicket.

We estimate that visitation to the reserve will be 190,000 visitor days during the first year and by the tenth year following enactment should reach 600,000 per year.

Time is running out for the Big Thicket, as development encroaches on the few areas remaining of this nationally significant resource. We urge prompt and favorable action by the Congress on this proposal for a Big Thicket National Biological Reserve.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

DOUGLAS P. WHEELER,
Acting Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR—NATIONAL PARK SERVICE, BIG THICKET NATIONAL BIOLOGICAL RESERVE (PROPOSED)

	19CY	19CY+1	19CY+2	19CY+3	19CY+4
Estimated expenditures:					
Personnel services	$51,000	$69,000	$218,000	$408,000	$491,000
All other	16,068,000	11,415,000	12,672,000	1,904,000	1,254,000
Total	16,119,000	11,484,000	12,845,000	2,312,000	1,745,000
Estimated obligations:					
Land and property acquisition	16,000,000	11,000,000	11,000,000		
Development	25,000	354,000	1,425,000	1,524,000	892,000
Operation and management (protection, maintenance, planning, development and operation of recreational facilities	94,000	130,000	420,000	788,000	853,000
Total	16,119,000	11,484,000	12,845,000	2,312,000	1,745,000
Total estimated man-years of civilian employment	3.0	5.0	19.0	38.0	45.0

DESCRIPTION OF UNITS—BIG THICKET NATIONAL BIOLOGICAL RESERVE

1. Big Sandy Unit—size, 14,300 acres.

The Big Sandy Unit is located in the northwestern portion of the Big Thicket area and extends from the Alabama-Coushatta Indian Reservation southwest along Big Sandy Creek approximately 12 miles.

The unit is a wild, well-watered, relatively unaltered area containing some of the finest examples of the Thicket's recognizable subtypes, ranging from the drier upland community to the stream bank and baygall community. Such diversity has its counterpart in the many kinds of mammals, birds, amphibians, and reptiles which inhabit the area. Thus the tract has outstanding possibilities for nature-trail interpretation and wilderness hiking.

2. Hickory Creek Savannah—size, 668 acres.

While not strictly Thicket-type vegetation, the longleaf pine-grassland association comprising the savannah is a distinctive threshold community bordering the true Thicket and bears an important relationship to it. The Hickory Creek example occupies part of a discontinuity in the Big Thicket type. This hiatus owes its existence primarily to an intrusion of soils that do not support the Thicket ecosystem. The contrast between the savannah and the actual Thicket is so marked that it serves admirably to illustrate the strength of the influence exerted by soil types on plant distribution, particularly in the case of the Big Thicket.

This unit is of outstanding value to botanists and naturalists because of the great variety of herbaceous plants it contains. The many different species here include many rare forms. Dominating the association is the dignified longleaf pine, one of the characteristic trees of the drier parts of the Big Thicket, here displayed in solitary prominence.

3. Turkey Creek Unit—size, 7,800 acres.

The Turkey Creek Unit extends from State Route 1943 south to State Route 420. The area illustrates a remarkable diversity of Upper Thicket vegetation types, including the largest known field of insectivorous pitcher plants in the region. The Southern portion of this tract is a locally important botanical study area and many regard it as the most beautiful area in the Big Thicket Region. In this area will be located the only visitor center development for the Biological Reserve. All other areas will be devoted to hiking trails, self-serving information exhibits, and comfort facilities only.

The unit embraces several miles of the lower reaches of Turkey Creek down to and including its confluence with Village Creek. Along its length are found splendid examples of the Big Thicket's "upper division" vegetative types. Two particular portions of the unit highlight its qualities. First, near the north end is a tract displaying perhaps the greatest variety of subtypes, each in outstanding condition, to be found within any comparable acreage in the Thicket. The series begins with what may be the largest known field of the fascinating insectivorous pitcher plant in the region, followed in quick succession by areas containing the savannah, upland hardwood, baygall, cypress swamp, stream bank, and beech-magnolia communities. Also, the northern end contains the now record Shagbark Hickory tree. The second outstanding portion of the Turkey Creek Unit is that containing the Village Creek confluence. It is an unusually well-preserved tract of mixed hardwoods typifying the stream bank community.

4. Beech Creek unit—size 4,856 acres.

The rolling uplands at the head of Beech Creek support some of the best examples of mixed hardwood forest in the Big Thicket. The area extends South of Highway 1746 and along the west side of Highway 97.

This unit lies in the heart of what may be considered the richest expression of the Big Thicket's "upper division." It occupies a well-drained, gently rolling benchland bordering the Neches River valley. The deep, fertile soils of this area support fine stands of the beech-magnolia-white oak-loblolly pine association which is the symbol of the Thicket. The entire unit has been subjected to some logging, but is believed to have the potential to recover fully once protection is instituted. It is selected on the basis of inferred quality, in both vegetative properties and wilderness values.

5. Neches Bottom Unit and Jack Gore Baygall—size, 13,300 acres.

The broad channel of the Neches River closely follows the eastern border of the Big Thicket Region. Its flood plain supports mature lowland hardwood forests that contain many species not found elsewhere in the Big Thicket. The Neches Bottom and Jack Gore Baygall Unit includes bottomland areas along the Neches River, which provide valuable habitants for endangered wildlife species.

It is laced with sloughs connecting with the river, and these contain immense specimens of bald cypress and water tupelo. The slightly elevated lands between the sloughs support equally large trees of many species representative of the Big Thicket's streambank community. The area has sustained some cutting and a few pine plantations exist between the Jack Gore Baygall and the river. Authorities consider this area to have promising potential to be one of the finest stands of lowland hardwood forests in the gulf coastal region. It, too is a good wildlife area and lies in the expected range of the ivorybilled woodpecker.

6. Lance Rosier Unit—size, 20,008 acres.

Located near the southern end of the Big Thicket, the Lance Rosier Unit is a relatively isolated and undisturbed example of the Lower Thicket vegetation type. This is the only representative of the Lower Thicket communities. This large area will facilitate preservation of wildlife species that might become endangered in the smaller tracts. This 20,008-acre unit is the largest of the eight units, which comprise the National Biological Reserve.

7. Beaumont Unit—size, 6,218 acres.

This unit is an irregular wedge of land at

the confluence of Pine Island Bayou and the Neches River, immediately north of the city of Beaumont. The western boundary of the unit is formed in part by the Neches Canal, which starts at the Neches River and then passes underneath Pine Island Bayou on its southward course; thus the major portion of the unit is literally an island, surrounded by streams—both natural and manmade. The unit is a superlative representation of the Thicket's flood plain forest and stream bank communities. It is doubtful if a finer stand of the various hardwoods comprising these types exists. From all evidence, at least the southern third of the unit is that extreme rarity—an area which has never been logged, unless a few bald cypress were removed many years ago. This inviolate condition is probably attributable to the difficulty of access across the many sloughs and fingers of swampland which penetrate the area.

Its isolation and size give the Beaumont Unit the highest rank in wilderness quality in the entire area studied. It abounds with varied bird and animal life. Alligators have persisted in its interior sloughs, and the rare ivory-billed woodpecker was recently reported there.

By Mr. HART:

S. 2287. A bill to supplement the Federal Trade Commission Act by amending it to increase competition, promote interstate and foreign commerce, prevent unreasonable restraints on commerce and the commercial working of technology advancements, to protect the freedom of employment for scientists and engineers, and for other purposes. Referred to the Committee on Commerce.

Mr. HART. Mr. President, the patent licensing system in this country today looks like the loser in a barroom brawl. The bandaids, gauze patches, and wrappings pretty much disguise the form underneath.

Today, I introduce legislation which would do a bit of plastic surgery—incorporating the add-ons and restructuring the basic form so it reflects the true goals of the public-interest patent licensing system.

The goals of this bill are two: First, to make the patent licensing system serve the public interest by providing that the system cannot be used to block implementation of technology which is in the public interest. Second, to codify various legislative and court decisions which have said the same thing in limited areas of patent licensing.

Enactment of this bill would finally bring the United States into line with at least 20 other major industrial nations which long ago recognized the need for utilization of patented technology by the public to encourage rapid and open development.

In doing so, we should once more be competitive in the field of technology, offering more employment to our scientists and engineers and removing artificial restraints on competition patents can create.

Mr. President, the patent system, in its entirety, has been thought of in many quarters as existing for the special good and benefit of inventors or their corporate employers.

Of course, this was never the goal of the patent system. It was set up by the Constitution to benefit the public by promoting the progress of science and the useful arts. Obviously, neither has been served if a patent is obtained merely as a way of locking up the technology so that it cannot be used.

It seems clear to me, that in choosing the language to set up our patent system, the framers of the Constitution had in mind its forerunner, the Statute of Monopolies adopted in England in 1623. This authorized patents when not "mischievous to the state, by raising of the prices of commodities at home, or hurt of trade or generally inconvenient."

This country has faced up to the problem—on a piecemeal basis—a number of times in the past with specific incidences. I ask unanimous consent to include at the end of my remarks some of the more outstanding examples of these.

Also, I ask that an analysis of this bill be printed, along with the complete text.

Mr. President, the bill I think is not precedent-setting, but merely commonsense.

While still encouraging new ideas—and guaranteeing the inventor fair compensation—its sets out procedures whereby that new idea can be put to work for the public good.

I hope the proposals in this bill will widen discussion and draw support.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended (15 U.S.C., secs. 41–58), is hereby amended by adding at the end of section 5(a) thereof the following new paragraphs, to read as follows:

"(7) It is hereby declared an unfair act or practice subject to this Act, and an inequitable practice, for the owner of a United States patent or any licensee having sublicensing rights thereunder to refuse or fail to license such patent together with all available know-how necessary commercially to work the best modes of working the subject matter of the patent to any applicant in the United States on reasonable and nondiscriminatory terms, when the effect of such refusal or failure may be substantially to lessen actual or potential commerce, and:

"(A) The patented subject matter relates to the manufacture, use, sale, or commercial working of subject matter involving or related to public health, safety, or protection of the environment; and such subject matter is not commercially available to the public in any section of the country, or is available only in insufficient quantities, or in an inferior quality, or at price levels or subject to other conditions or circumstances the effect of which may be substantially to lessen competition in the manufacture, sale, or distribution of said subject matter or tend to create a monopoly therein, or which indicate that the same already exists; or

"(B) The patented subject matter has not been commercially worked during any continuous period of three years following the date of issue of the patent thereon, or of four years following the date of application for a patent thereon—unless such failure has been due solely to circumstances beyond the control of such owner and licensee; or

"(C) It is infeasible or impracticable for the applicant, without the grant of such license, to use or commercially work subject matter in a subsequently issued patent which he owns or under which he has a license; *Provided, however,* that such applicant has offered to license the subsequently issued patent to the owner or licensee of the original patent on reasonable and nondiscriminatory terms; or

"(D) The applicant commercially worked the patented subject matter in the United States before the actual filing date for the patent in the United States, or

"(E) The applicant is the maker or seller of a product of which the portion embodying the patented subject matter constitutes less than ten percent or is otherwise only a minor part.

"Any person injured or aggrieved by conduct declared an unfair act or practice by this paragraph may secure declaratory relief in respect to his entitlement to a license and the terms thereof, by civil action in a district court having jurisdiction of the parties, but nothing contained in this paragraph shall constitute a basis for an action for damages.

"(8) It is hereby declared an unfair act or practice subject to this Act for any corporation to enter into, maintain in effect, or in any way enforce or threaten to enforce any contract with any employee or prospective employee thereof which provides that or which as a practicable matter has the result that such employee shall not or cannot engage in any trade, profession, or calling, or any branch thereof, subsequent to the termination of his employment by such corporation, where the effect of such provision may be substantially to lessen competition or tend to create a monopoly in any line of commerce or substantially lessen the opportunity of such employee to pursue his livelihood: *Provided, however,* Nothing contained in this paragraph shall make unlawful any agreement that such employee shall not divulge to others or utilize for commercial purposes trade secrets of such corporation. Any employee or former employee of any corporation who is hindered, limited, or damaged in his pursuit of his livelihood or engaging in any trade, profession or calling, by reason of said corporation's violation of the provisions of this paragraph, may maintain an action in any court of competent jurisdiction for the recovery of such damages (including loss of anticipated profits, if any), together with the costs of maintaining such action, including attorneys' fees: *Provided, however,* That any such action shall be barred unless commenced within four years after the cause of action accrued.

SEC. 2. The Commission is authorized and directed to define any and all terms used herein, and otherwise to prescribe such procedural and substantive rules and regulations as may be necessary or appropriate for carrying out the purposes of this Act. The Commission, acting through its own attorneys, is authorized and directed to seek injunctive and such other relief as may be necessary or appropriate to prevent violation of any provision of this Act or of any rule or regulation promulgated hereunder, in any court of competent jurisdiction. The Commission shall further have all powers and enforcement duties with respect to unfair acts or practices subject to this Act as it does respecting unfair methods of competition and unfair acts or practices in commerce, and the provisions of the Federal Trade Commission Act (15 U.S.C., Secs. 41–58) shall otherwise be fully applicable with respect to unfair acts or practices subject to this Act.

SEC. 3. The Office of Management and Budget shall not inspect, examine, audit, or review the subpoenas, general or special orders, records, work, or congressional recommendations or testimony of the Commission or any member thereof or comment on any budget request made by the Commission, any other provison of law to the contrary notwithstanding. The Comptroller General shall conduct such reviews, audits, and evaluations of the Commission as he deems necessary. All accounts, budgets, and records of the Commission shall be submitted to the

General Accounting Office from time to time as the Comptroller General may require, and the Commission shall maintain, preserve, and make available for inspection by the General Accounting Office such records as the Comptroller General may require.

HISTORICAL EXAMPLES

Since at least a hundred years ago, the Federal courts have refused to enforce the privilege to exclude others, where the infringer was practicing technology important to public health, safety, or the environment. In the most famous of these cases, *The City of Milwaukee* v. *Activated Sludge, Inc.*, 69 F.2d 577, 593 (7th Cir. 1934), the City of Milwaukee was held to have infringed a patent for processing sewage, but the Seventh Circuit refused to grant an injunction. The court states:

"Ordinarily court will protect patents rights by injunctive process. . . . If, however, the injunction ordered by the trial court is made permanent in this case, it would close the sewage plant, leaving the entire community without any means for the disposal of raw sewage other than running it into Lake Michigan, thereby polluting its waters and endangering the health and lives of that and other adjoining communities."

Likewise, a Federal court has refused to enforce a patent which would provide poor people a cheap cure for rickets. In *Vitamin Technologists* v. *Wisconsin Alumni Research Foundation*, 146 F.2d 941, 945 (9th Cir. 1945), the court noted, "it is the poor people suffering with rickets who constitute the principal market for appellee's monopolized processes and products." Likewise, railroad car handbrakes, firehose couplers, and street lamps have been treated at various times as technology so imbued with public interest that injunctive relief has been denied against patent infringement. Whatever long term effect the patent system has in causing new inventions to come about has been reconciled with the immediate problem of saving or protecting human lives, safety, or the environment.

Congress itself has recognized the predominance of this public interest by providing for the compulsory licensing of plant patents, where such "is necessary in order to insure an adequate supply of fiber, food, or feed in this country and . . . the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair" (7 U.S.C. sec. 2404). In addition, Congress has provided for compulsory licensing of patents involving clean air, if the patent is "not otherwise reasonably available;" and the license is necessary to permit persons to comply with the Federal regulations promulgated under the Clean Air Act (42 U.S.C. sec. 1857h–6).

The Special Committee on Environmental Law of the American Bar Association recently adopted a resolution as follows:

"Resolved, That the American Bar Association supports the principle of mandatory licensing of patents in all areas of pollution control technology in those cases with respect to which the Environmental Protection Agency has determined that mandatory licensing is required because the patent holder is unwilling or unable to develop the patent or to supply the total market demand for the patented technology."

The government itself (the sovereign which grants the patent) has limited the private privilege to exclude by retaining the right to use patented inventions in public projects. Section 1498 of the Judicial Code (28 U.S.C. sec. 1498) provides that whenever a patented invention "is used or manufactured by or for the United States without license of the owner thereof," the patent owner's only remedy is for "his reasonable and entire compensation for such use and manufacture" by an action against the United States in the Court of Claims. The phrase "by or for" the use of the United States has been interpreted to include all contractors and subcontractors doing work for the United States. The original reason for this statute, and one that retains vitality today, is that the government retains the righ to undertake work involving the national defense and security, or other public necessities, without being blocked by the patent system, although it should pay reasonable compensation for the use of the patented invention.

An extension of this philosophy is found in the Atomic Energy Act (42 U.S.C. secs. 2182–2187). In essence, this Act provides that no patent shall be granted for inventions for use solely in atomic weapons, although an inventor may apply for an award from the Atomic Energy Commission for the contribution he has made. An inventor may obtain a patent for a nuclear invention which has a nonmilitary use; but if the Atomic Energy Commission declares that such a patent is "affected with the public interest," under defined criteria, then others may obtain a compulsory license under the patent in order to maximize the distribution and utilization of the invention.

Not only has Congress required a patent owner to license a patent when the government wishes to use a patented invention in a public project, but also the Congress has required that under some circumstances the government acquire title to certain patents. When the government finances the research work of an inventor, the government is sometimes entitled to any patent arising from such research (and even, in some circumstances, to a license to utilize any background patents which would make utilization of such a government-owned patent possible). This is true for solid waste disposal (42 U.S.C. sec. 3253(c)), saline and other water research (42 U.S.C. secs. 1954(b) and 1961c-3; see also 85 Stat. 161), coal research (30 U.S.C. secs. 666 and 951(c)), helium production and research (50 U.S.C. sec. 167b), arms control and disarmament research (22 U.S.C. sec. 2572), certain agricultural research (7 U.S.C. sec. 427l(a)), and research under certain funds dealing with Appalachia (40 App. U.S.C. sec. 302(e)). The fundamental notion of these statutory provisions is that if the government funds the research and thereby underwrites the process and risk of invention, it does not seem appropriate thereafter to give the hired contractor private monopoly privileges based upon his publicly funded government contract.

In specific recognition of this policy, President Nixon, on August 23, 1971, issued a revision of President Kennedy's 1963 Statement on Government Patent Policy, which recognizes that for all government contracts, certain patents (but not all of them) shall vest in the government. Such patents include those involving inventions (1) intended for general commercial use, (2) directly concerning public health, safety, or welfare, or (3) arising out of technology developed principally by or for the government.

Federal courts have also required compulsory licensing or cancellation of patents used to violate the antitrust laws or other economic regulatory law. Numerous court cases, for example, have demonstrated how various industries in the United States have used patent agreements as instruments of very tight output and price control, leading to a monopolization of trade and a stifling of competition. As the privately owned patent monopoly is an exception to the general rule in favor of competition in the United States, courts order the licensing of patents to safeguard the competitive system against the adverse side effects of the exclusionary power of a patent. As the Supreme Court pointed out just a few months ago, in *United States* v. *Glaxo Group Ltd.*, —— U.S. —— (January 22, 1973) (slip op. at 7):

"[T]o fashion effective relief. . . . [in antitrust suits] often involves a substantial question as to whether it is necessary to limit the bundle of rights normally vested in the owner of a patent, . . ."

Compulsory licensing provisions are also a familiar feature of court-sanctioned antitrust consent decrees. Moreover, compulsory licensing has been applied to both patents and secret know-how. The privilege to exclude others is thereby subordinated to other general rules which favor the growth and development of the economy to help the patent system best fulfill its role in a competitive economy.

All of these ad hoc applications are in full accord with the Paris Convention for the Protection of Industrial Property of 1883—to which the U.S. is a signatory. Section 5 of that Convention recognizes that it is appropriate to have compulsory licenses if a patented invention is not being utilized commercially:

"Each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exclusive rights conferred by the patent, for example, failure to work."

In Constitutional terms, failure to use an invention is an abuse of the patent monopoly, for such nonuse fails to achieve the constitutional purpose of promoting the progress of science and the useful arts. Compulsory licensing of a patent which has not been worked has nothing to do with the antitrust laws; this nonworking provision arises out of the failure to exploit the patent and let the public benefit from the invention.

Practically every other major industrial nation in the world has enacted provisions to provide for the utilization of patented technology by the public where necessary to encourage rapid and open development and exploitation of such technology. The most common of these provisions in foreign law prevent private patent monopolists from excluding the public from practicing (1) technology involving the public health or safety, (2) technology not being commercially worked by its owner, and (3) technology on which someone has obtained a valuable improvement patent.

The public health and welfare provision generally adopted abroad provides for the compulsory licensing of patents relating to the public health or safety if certain economic conditions designed to protect the patent owner and the public are met. These include findings by an appropriate government agency that the patented technology involving such public health or safety is being made available to the public only in insufficient quantities or in an inferior quality or at abnormally high prices.

The nonworking provision generally adopted abroad provides that if technology is not being fully and effectively commercially worked after the expiration of three years from the grant of a patent thereon, or of four years from the date the application for a patent thereon was filed, another member of the public is given the opportunity to work the technology. Such provisions do not apply, of course, if the owner has a legitimate excuse for failing to commercially work the technology involved.

The improvement patent provision generally adopted abroad prevents the owner of an earlier and presumably less advanced patent from blocking newer and more advanced technology. To be fair to the owner of the earlier patent, however, he is generally required to license the owner of the improvement patent only if he is in turn permitted to practice the improved technology.

ANALYSIS OF THE BILL

The first paragraph of this Act to supplement the Federal Trade Commission Act [designated as paragraph (7) of section 5(d)] would simplify and clarify the law of compulsory licensing. Essentially, it declares the refusal or failure to license a patent on a reasonable basis (and in a commercially useful way) to be improper if two basic legal tests are met. First, and applicable in all circumstances, is the test, based on the Clayton Act, that the effect of such refusal to license have the requisite impact on interstate commerce of substantially tending to lessen actual or potential commerce. The second requisite condition varies, as delineated, by the following subparagraphs to the Act:

Subparagraph (A) codifies the long established *Activated Sludge* case by requiring the compulsory licensing of patents "related to public health, safety, or protection of the environment," when it is necessary to do so to insure the public's use of the subject matter on a reasonable basis. This provision provides standards by which a manufacturer can determine when his patent would appropriately be subject to compulsory licensing in this area, rather than leaving him to the possible uncertainty of a case-by-case decision.

Subparagraph (B) provides that if a United States patent has not been commercially utilized for a period of three years from issuance of four years from application, and someone else is willing to utilize or work that patent and pay a reasonable fee for a license thereunder, he is permitted to do so. This is a direct codification of the provision agreed to by the United States in Article 5 of the Paris Convention of 1883.

Utilization of such an unused patent does the patent owner no harm; and can only be a benefit both to him, as a result of license fees, and to the public, through the introduction of new technology. Generally, the only reason that a given manufacturer, or a whole industry (such as the drug industry), will tend not to grant licenses or otherwise utilize a patent is to block competition or prevent development of certain lines of technology. Otherwise, if a patent owner is not able to utilize the patented invention himself, there is no other rational reason for him not to license his patent. Under this provision, if the patent owner is unable to market his invention for reasons beyond the control of such owner," he then is not compelled to license the patent.

Subparagraph (C) provides that one patent may not be used to block the utilization of another. Often, one company will make a significant improvement over the invention of another (which improvement would have to be significant in order to be patentable). But, the company which had made the significant improvement might be unable to exploit this improvement because it would involve infringing a background or underlying patent owned by another. It frustrates the development of technological improvements to permit some patents to block the utilization of others containing significant improvements.

As a result, this bill would change the patent law to provide that one patent cannot be used to block the utilization or practice of another. The owner of the background patent is protected, however, because he does not have to license his background patent, unless he receives a license under the improvement. This permits two companies to practice the latest technology in competition with each other. This should stimulate considerably the expansion of industry and minimize court litigation. Moreover, opening up the commercialization of complementary inventions should do away with the need for elaborate industrywide patent pools which have been used in the past as devices to restrict the use or output of technology, to facilitate the division of markets, or to establish uniform, anticompetitive pricing policies. Of course, this provision would not permit the development of closed pools, which would be used to exclude the rest of an industry for the benefit of the members of a "club." That practice is already forbidden by the Sherman Act and such decisions as *Associated Press* and *St. Louis Terminal*.

Subparagraph (D) would protect a businessman who had commercially manufactured an item for which someone else had later filed and then obtained a patent. This provision is common in European patent law, for it is inequitable to force a manufacturer to take his product off the market if his product was on the market prior to someone else's actually filing his application for a patent and thereby giving notice that he planned to block this invention off for himself.

Subparagraph (E) permits compulsory licensing in situations where patented subject matter is "a minor part" of the product which the would-be licensee wishes to sell. It is unfair, and an undesirable blockage to commerce and industry, to permit a patent on only a small piece of a much larger machine or complex to block the sale or manufacture of such a complex machine. Such minor patents, or patents which deal with only a small part of a given area of technology, have been used in the past to block entire areas of technology. This has excluded others from coming in and competing, not as to the specific and claimed subject matter of the patent, but as to the whole area of technology. Through the use of such blocking patents, cartels have been able to divide markets to avoid newcomers from disrupting large and carefully controlled market schemes not related to the specific technology involved in the patent. Persons denied licenses to which this act entitles them may secure declaratory relief, but not damages, in the Federal courts. The refusal to grant a license would also constitute unclean hands, so the patentee could not sue an infringer to whom he improperly denied a license. Additionally, the FTC could enter a cease and desist order.

Such a general pattern of compulsory licensing, uniformly applied, and surrounded by provisions to safeguard the interests of the patent owner, but at the same time not to disregard other aspects of the public interest, should prove a useful means for promoting scientific and economic development and preserving competition. Maintaining a "safety valve" of compulsory licensing will open up sections of technology hitherto closed and provide an opportunity for qualified parties to carry inventions forward into production. This will increase the rate of utilization of patented techniques that have proven themselves commercially successful and needed by the public.

Such compulsory licensing should also prevent blocking valuable inventions and improvements thereon and will eliminate the opportunity for one manufacturer of a patented item to take over all competitors in similar items. Compulsory licensing, moreover, will remove opportunities for companies to impose as conditions for a license restrictions on use, output, markets, or prices, which interfere with efficient production and the free exercise of competitive forces in the economy. As the patent owner will receive a reasonable royalty in return for his license, his interests will be protected; and he will be rewarded for taking the risks he incurred. As a result, the undesirable side effects of monopolistic exclusion should be reduced while progress of science and the useful arts is maintained and fostered.

Paragraph (8) of this bill will assist scientists and engineers to pursue their livelihood. Some state trade secret laws, and the judicial interpretation of such state laws, have had the effect of denying to some scientists the opportunity to work for companies of their choice. Their mobility has been reduced, their personal freedom to change employers limited, their bargaining position weakened; and the more they have learned and the more productive they have become, the more they have been tied to their present employers.

All this has been done in the name of protecting trade secrets or formulas the scientists may have learned as a previous employee, although the protection given has not been so limited. Instead, the effect of some state decisions has been to prohibit an employee from working in his trade for a new company at all. This bill makes the law uniform and sets what I believe to be fair standards to protect both employers and employees. This is not a general trade secret law, however; and it neither legalizes nor makes illegal other agreements concerning trade secrets. Instead, it leaves the present law in the area undisturbed except to the extent necessary to protect the livelihoods of scientists and engineers.

By Mr. PROXMIRE:

S. 2288. A bill to regulate closing costs and settlement procedures in federally-related mortgage transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I introduce legislation to reduce closing costs on real estate transactions. If this bill is enacted, it will save the average home buyer at least $200 when he buys a house. On a nationwide basis, the annual savings to home buyers would exceed $700 million.

The typical home buyer is a helpless victim at the mercy of lenders, lawyers, real estate brokers, title companies and others who make a living off of real estate settlements. The average person only buys a home once or twice in his lifetime, and has little effective bargaining power over closing costs. The entire settlement process is a deep mystery for most home buyers, and on settlement day many suddenly realize they are required to pay hundreds or even thousands of additional dollars in closing charges for services which they don't really understand. Nor do home buyers have any way of judging whether the price they pay for each item appearing on their closing statements is fair and reasonable.

Under these circumstances, it is little wonder that home buyers are being overcharged for closing services. The extent of the overcharge was amply confirmed in a 1971 study conducted by the Department of Housing and Urban Development and the Veterans' Administration. This study showed a tremendous variance in closing costs between different sections of the country. Closing costs ranged from a low of $50 to a high of $2,000 for the same priced housing.

Some of this difference may be due to regional differences in taxes and recording procedures. But even when these factors are accounted for, there still is a great discrepancy between areas. As one HUD official put it, "In some areas it is almost a matter of charging all that the traffic will bear."

My bill deals with the problem of excessive closing costs in several ways.

First, it directs HUD to issue regulations to limit the amount of closing costs

which can be charged in each section of the country. These regulations must be issued in 6 months and would apply to virtually all residential real estate transactions. These limits would apply to such items as title examinations, title insurance, surveys, and attorney fees.

Second, the bill improves the present system for disclosing closing costs. HUD is required to prepare an informational booklet on closing costs and a uniform settlement form to be used on all residential real estate transactions. Lenders are required to distribute the information booklet to all loan applicants and to give all prospective buyers and sellers a complete description of all closing charges 10 days in advance of any real estate settlement.

Third, the bill prohibits several anticompetitive practices in the settlement process which tend to raise charges. Kickbacks for referring business or real estate transactions are prohibited. Attorneys are barred from receiving commissions from title insurance companies; title insurance companies cannot write insurance on property when they are owned by or controlled by the seller of the property; and title companies are authorized to handle real estate settlements even where prohibited by State or local laws.

Fourth, the bill encourages long-term reform in land recording procedures by requiring HUD to set up a computerized demonstration program in various areas of the United States.

I believe these reforms fill go a long way toward reducing the excessive closing charges paid each year by millions of American homebuyers.

By Mr. HATFIELD:

S. 2290. A bill to amend the Social Security Act to provide for partial general revenues financing of benefits under title II thereof, to permit individuals covered under certain other retirement programs to elect not to be covered under social security, and to provide for the financing from general revenues of the health insurance programs established by parts A and B of title XVIII of such act. Referred to the Committee on Finance.

FINANCING REFORM OF SOCIAL SECURITY AND MEDICARE

Mr. HATFIELD. Mr. President, an index of the humanity of any civilization is how it takes care of its elderly. In our society, we have provided social security since 1935—albeit somewhat behind the first social security legislation which originated in Bismark's Germany in 1881. Still, for us it was a noble experiment. Virtually all Americans have grown to love and support the social security system. However, the system has become so encumbered with changes since its inception that few really know how it works, and even fewer would attempt to criticize it. Yet, there are upon examination, many shortcomings of the present system, some of which I would like to focus on today.

Today, social security is neither social nor security. It is not social in that all society does not equally participate. Nor is it security in that some are excluded, many are paid too little to retire on, and the trust fund concept is a sham that has little relationship to the insurance principles.

Let me first elaborate on the social part of social security. That is, who pays for the retirement of the elderly? As it now stands, as emphasized by the President's 1971 Advisory Council on Social Security and by the reports of the Brookings Institution, the social security system represents a transfer of income from lower and middle-income workers to the elderly unemployed. Social security contributions that support the system are not really insurance premiums, they are taxes. In fact, young workers could get three times the benefits from a private plan for such a level of contributions. And they are taxes on the wage of workers—currently the first $10,800 of earnings, but to rise to the $12,000 level in 1974 with automatic increases in 1975 and later geared to rises in average earnings. The current 5.85 percent tax on wages up to this level is matched by an equal amount from employers. But as the Brookings Institution studies have shown, this additional tax is really also paid by workers because employers shift this tax back to workers in lower wages—or fewer jobs.

This means that social security tax is now the most important tax for most workers earning under $12,000 per year. Its total cost to the $12,000 workers exceeds that of his income tax obligation, assuming a family with two children.

Thus, the social security contributions, really a payroll tax, have become a second most important tax in the American fiscal system—approaching $60 billion, second only to the income tax. But, the critical point here is that this tax falls on the lower and middle-income wage and salary workers because the tax rate falls to zero once income rises above $10,000 this year and $12,000 next year. The tax is at zero on all nonwage income—dividends, rent, interest, and profits. Thus, the original concept of insurance for the retired wage earner on an equitable basis is negated.

Having established that the social cost of providing for the elderly is borne inequitably, but by the current generation of lower and middle income working people, let us now turn to the social security benefits. More than 90 percent of Americans are covered by the system. But how does the system work in providing security?

Surely, for some recipients, $100 a month is not a sufficient pension on which to live.

Surely, for the wealthy the social security benefits are not really needed, nor for that matter, even taxed.

Surely, for some, they do not represent work actually done. It is possible to qualify for social security by having had shares in oil lease operations that are defined as self-employed income.

Surely, for others, that growing number who choose to work after 65 and add to the national product, there are no social security benefits even though they might have paid social security taxes all their working lives and are still taxed after 65 on their current incomes.

And surely, there is no vast trust fund to pay out pensions for the future—the trust fund is only $43.4 billion, about eight-tenths of next year's payments—for the payments are primarily financed by taxes on the working generation. And that is the critical point. To run the social security system as a private pension scheme is a myth recognized by social security experts.

Mr. President, during the last Congress I introduced similar legislation which provided for operating the social security program on a pay-as-you-go basis. I am pleased that the 92d Congress subsequently incorporated this concept into the law with the enactment of the 20-percent benefit increase which was effective for October 1972. Moreover, this concept was reendorsed with the later enactment of H.R. 1—the 1972 social security amendments.

WHAT SHOULD BE DONE?

Recognizing that taking care of the elderly is a social responsibility of the rich as well as the middle- and lower-income workers; and

Recognizing that benefits should flow to all Americans in adequate amounts to sustain a decent living standard;

I propose the following recommendations:

First, the social security benefit system should be separated from medicare with respect to financing, while medicare would continue to be administered by the Social Security Administration. Medicare would be financed by general tax revenues which would significantly lower the burden on the wage earners who are presently bearing the financial responsibility for it;

Second, the payroll tax should be made optional to the worker as long as he or she is a member of an insurance or pension program of at least comparable magnitude in his or her judgement. This is only fair in that private insurance and pension plans now offer more incentive than would the Federal plan on a free market. And the goal is security in one's old age; and

Third, the first $100 per month of social security benefits should be financed out of the general revenue, not the payroll tax. Today, an individual can be eligible for benefits of a program into which he has paid very little, the burden falling on the other wage earners contributing to social security. If it is accepted that an individual is entitled to benefits that are not related to how much he has contributed to social security, then the middle and lower wage earner should not have to bear the primary responsibility.

This plan could both spur recovery—by across-the-board payroll increase for workers to spend—and fight inflation by cutting labor costs of unit production as well as to revive business profits. It would increase employment and help the American balance of payments in competing with imports, while making exports more competitive. The new burden of social security would be more equitably distributed than the old burden of disproportionately taxing the lower- and middle-income workers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINANCING FROM GENERAL REVENUES OF THE FIRST $100 OF SOCIAL SECURITY BENEFITS

SECTION 1. Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In addition to any money appropriated, pursuant to the preceding provisions of this section, for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, there is authorized to be appropriated to each such Fund in or with respect to each fiscal year, commencing with the fiscal year ending June 30, 1973, an amount equal to the amount of the expenses (other than administrative expenses) of each such Fund which are attributable to payments from such Fund, during such fiscal year, of monthly insurance benefits under this title to individuals (excluding, in determining the amount of such expenses incurred with respect to any individual, so much of any monthly insurance benefit of such individual as exceeds $100)."

ELECTIVE EXEMPTION FROM SOCIAL SECURITY COVERAGE BY INDIVIDUALS COVERED UNDER CERTAIN OTHER RETIREMENT PROGRAMS

SEC. 2. (a) (1) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Service Excluded Under Election Made By Individual Covered by Qualified Retirement Programs

"(p) Notwithstanding the provisions of subsection (a), the term 'employment' shall not include any service with respect to which an election under section 3121(r) of the Internal Revenue Code of 1954 applies."

(2) Section 211(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (8);

(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) There shall be excluded any income (and related items) with respect to which an election under section 1402(i) of the Internal Revenue Code of 1954 applies."

(b) (1) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—

(A) by striking out "and" at the end of paragraph (9);

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (10) the following new paragraph:

"(11) there shall be excluded any income (and related items) with respect to which an election under subsection (i) applies."

(2) Section 1402 of such Code (definitions relating to tax on self-employment income) is further amended by adding at the end thereof the following new subsection:

"(i) ELECTION OF EXEMPTION BY INDIVIDUAL COVERED BY QUALIFIED RETIREMENT PROGRAMS.—

"(1) IN GENERAL.—Any individual who at the close of his taxable year is covered by a qualified retirement program (as defined in section 3121(r)) may, at his option, in such manner and form and at such time as the Secretary or his delegate shall by regulations prescribe, elect to be exempt from the tax under section 1401 for such taxable year. An election made by an individual for any taxable year under this paragraph shall be irrevocable (and may not be subsequently changed by amendment of such individual's return for such year or otherwise).

"(2) APPLICABILITY OF ELECTION.—An election made by an individual under paragraph (1) shall apply with respect to all income derived during the taxable year for which it is made from every trade or business carried on by such individual (and with respect to all deductions attributable to each such trade or business and any distributive share of income or loss therefrom), and shall be effective with respect to any payments of estimated tax for the taxable year under section 6153 which fall due after it is made.

"(3) REQUIREMENT OF SIMULTANEOUS ELECTION WITH RESPECT TO EMPLOYMENT.—No election may be made for any taxable year under paragraph (1) by an individual who during such year performed service which constituted (or would but for an election under section 3121(r) constitute) 'employment' for purposes of chapter 21 unless such individual also makes an election with respect to all such service under section 3121(r); and, under regulations prescribed by the Secretary or his delegate, the election under paragraph (1) shall also include or be accompanied by such an election under section 3121(r)."

(c) Section 3121 of such Code (definitions under Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(r) SERVICE EXCLUDED UNDER ELECTION MADE BY INDIVIDUAL COVERED BY QUALIFIED RETIREMENT PROGRAM.—

"(1) IN GENERAL.—For purposes of this chapter other than for purposes of the taxes imposed by section 3111, the term 'employment' shall not include any service with respect to which an election under paragraph (2) applies.

"(2) ELECTIONS OF EXEMPTION.—

"(A) IN GENERAL.—Any individual who at the close of his taxable year (which shall be determined in the manner provided by section 211(e) of the Social Security Act) is covered by a qualified retirement program may, at his option, in the manner provided in subparagraph (C), elect to be exempt from the tax under section 3101 for such taxable year. An election made by an individual for any taxable year under this paragraph shall be irrevocable (and may not be changed by amenment of such individual's return for such year or otherwise).

"(B) APPLICABILITY OF ELECTION.—An election made by an individual under this paragraph shall apply with respect to all service performed by such individual during the taxable year for which it is made which would constitute 'employment' for purposes of this chapter but for this subsection.

"(C) MANNER OF ELECTION.—An election by an individual under this paragraph to be exempt from the tax under section 3101 for any taxable year may be made only by filing a claim (which must be included in or accompany an election made under section 1402(i) (1) in the case of an individual who is described in section 1402(i)(3)) for a special refund of such tax under section 6413(d), by means of a credit against the income tax on account thereof under section 31(b) for such taxable year or otherwise.

"(3) MEANING OF 'QUALIFIED RETIREMENT PROGRAM'.—For purposes of this paragraph (and for the purposes of section 1402(i)) a 'qualified retirement program' means a program designed to provide, for workers covered thereunder, retirement, survivor and disability benefits which the Secretary of Health, Education, and Welfare determines to be comparable in value to the retirement, survivor, and disability benefits provided to individuals covered by the insurance program established by title II of the Social Security Act. An individual shall be deemed to have been covered by a qualified retirement program at the end of his taxable year only if he made (or had made on his behalf) contributions to, and was covered by, such program for all of the months of such year."

(d) (1) Section 6413 of the Internal Revenue Code of 1954 (special rules applicable to certain employment taxes) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL REFUNDS ARISING OUT OF EXEMPTION BASED ON COVERAGE OF QUALIFIED RETIREMENT PROGRAM.—

"(1) IN GENERAL.—If an employee described in section 3121(r)(2)(A) receives wages from one or more employers for services performed during the taxable year, such employees shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate).

"(2) NOTIFICATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate shall promptly notify the Secretary of Health, Education, and Welfare of each special refund allowed under this subsection."

"(2) Section 6413(c) of such Code (relating to special refunds) is amended—

(A) by inserting "BASED ON MULTIPLE EMPLOYMENT" after "REFUNDS" in the heading; and

(B) by inserting after "during such year" where it appears in clause (D) of paragraph (1) the following: "(after the application of section 3121(r)(1) in any case it applies)".

(e) Section 31(b) of such Code (relating to credit for special refunds of social security tax) is amended—

(1) by inserting "or 6413(d)" after "section 6413(c)" in paragraph (1); and

(2) by inserting after "to which paragraph (1) applies" in paragraph (2) the following: "and which represents a special refund allowable under section 6413(c)".

(f) Section 205(c)(5)(F)(i) of the Social Security Act is amended by inserting after "information returns" the following: ", elections made under sections 1402(i) and 3121(r) of the Internal Revenue Code of 1954,".

(g) The amendments made by this section shall apply only with respect to taxable years beginning after the date of the enactment of this Act.

FINANCING OF MEDICARE PROGRAMS FROM GENERAL REVENUES

SEC. 3. (a) (1) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended—

(A) by striking out subsection (b) thereof; and

(B) by striking out "(a)" at the beginning of such section.

(2) (A) Section 3101 of such Code (relating to rate of tax on employees) is amended—

(i) by striking out subsection (b) thereof; and

(ii) by striking out "(a)" at the beginning of such section.

(B) Section 3111 of such Code (relating to rate of tax on employers—is amended—

(i) by striking out subsection (b) thereof; and

(ii) by striking out "(a)" at the beginning of such section.

(3) Section 6051(c) of such Code (relating to statements required to be furnished to employees by employers) is amended by striking out the last sentence thereof.

(4) (A) The amendments made by paragraph (1) shall be effective in the case of taxable years beginning after December 31, 1971.

(B) The amendments made by paragraph (2) (A) shall be effective with respect to wages received after December 31, 1971.

(C) The amendments made by paragraph (2) (B) shall be effective with respect to wages paid after December 31, 1973.

(b) (1) Section 1832 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1971) such sums as may be necessary to assure a sufficiency of moneys in such fund to permit the making of such payments therefrom as are authorized by law. Any funds authorized to be appropriated to such fund by this subsection for any fiscal year shall be in addition to any funds authorized to be appropriated for such year to such fund under any other provision of law."

(2) (A) Section 1837 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this title, if, for any month, any individual is entitled to the insurance benefits provided under part A, such individual shall be deemed to be enrolled in the insurance program established by this part for such month and to be entitled to the benefits provided under such program."

(B) Section 1839(c) of such Act is amended by adding at the end thereof the following new sentence: "The preceding provisions of this subsection shall not be applicable to any individual deemed, under section 1837(f), to be enrolled in the insurance program established by this part."

(C) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(j) For purposes of this part, any premium owed by an individual, who is deemed (under section 1837(f)) to be enrolled for any month in the insurance program established by this part, shall be deemed to have been timely paid."

(D) Section 1844(a) of such Act is amended—

(i) in paragraph (1), (I) by inserting "(disregarding from such aggregate any premiums deemed to be paid under section 1840(f))" immediately after "Trust Fund", and (II) by striking out "and" at the end thereof;

(ii) in paragraph (2), by striking out the period at the end thereof and inserting in lieu of such period "; and"; and

(iii) by adding after paragraph (2) the following new paragraph:

"(3) a Government contribution equal to 200 per centum of the aggregate of the premiums deemed to be paid under section 1840(f)."

By Mr. CURTIS (for himself, Mr. HRUSKA, Mr. FANNIN, Mr. GOLDWATER, Mr. HELMS, and Mr. SCOTT of Virginia):

S.J. Res. 142. A joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget. Referred to the Committee on the Judiciary.

Mr. CURTIS. Mr. President, when I first took the oath of office as a Representative from Nebraska on January 3, 1939, the United States budget for fiscal year 1939 was out of balance by $3.862 billion, receipts of $4.979 billion having been exceeded by outlays totaling $8.841 billion.

Contrast these figures with the current statistics. According to the midsession review of the budget, published on June 1 by the Office of Management and Budget, there will be a deficit of $17.8 billion for fiscal year 1973. This deep plunge into red ink has come about despite the fact that receipts for 1973 will exceed expenditures for 1972. The same midsession review anticipates a deficit of $2.7 billion for fiscal year 1974, even though receipts in 1974 will be $16.2 billion more than outlays for 1973. In other words, Federal spending continues to race ahead of annually increasing revenues.

Some will say that to contrast current budget figures with those of 1939 is unrealistic since our population and gross national product have both vastly increased, and the quality of life and standard of living has undergone remarkable change. However, if those skeptics will look at the price of goods and services and the cost of living in 1939 and compare it with the present, they will see clearly the disastrous impact of spiraling deficit spending. If they will compare the national debt then and now, they will see the crushing burden which is being passed on to future generations of Americans—our children and grandchildren.

It appears to me that, with receipts increasing year after year and every year surpassing the outlays of the previous year's deficit budget, we should at least be able to balance the budget. Ideally, we should be able to create surpluses that can be applied toward reduction of the national debt. We cannot balance the budget, let alone reduce the debt, unless and until we bring outlays under control.

It is against this background that I am today introducing a constitutional amendment to implement the concepts of Federal budget control and a balanced Federal budget. I am proud to have joining with me as cosponsors five of my colleagues: Senators FANNIN, GOLDWATER, HELMS, HRUSKA, and SCOTT of Virginia.

I was a member of the Joint Congressional Study Committee on Budget Control, and I fully support the efforts it has undertaken to bring the budget under control. I am well aware that many excellent ideas have already been offered in this Congress to deal with various aspects of the problem. Our colleague, Senator BROCK, has introduced a bill, S. 40, which offers useful remedies. Likewise, S. 1641 embodying the recommendations of the Joint Committee on Budget Control holds out much promise.

However, after studying each of the sundry proposals offered thus far, including several which I myself have offered in past Congresses, I have become convinced that there is only one way to achieve real control over Federal spending and to obtain the "balanced budget" goal most of us desire. A statute providing for a balancing of the budget and limiting expenditures can be easily repealed or supplanted by a subsequent statute. A constitutional amendment that merely declares that the budget must be balanced is difficult to administer. What happens when there is not enough money? Who establishes the priorities? Such an amendment is fraught with problems. The only way we can truly achieve a balanced budget is through adoption of a constitutional amendment which mandates the collection of taxes to pay for any deficit if Congress or the President or both fail to carry out their other constitutional or legislative duties. Any solution that is not self-implementing subjects Congress and the Executive to the same political pressures that now prevent us from achieving a balanced budget.

In my estimation, none of the proposals offered thus far meets this criterion. They contain valuable suggestions for reforming antiquated congressional procedures, giving Congress a mechanism for judging priorities, and assigning responsibility for overall budget review. Pushed back to its root, however, our budget problem does not result from antiquated procedures, inadequate machinery, or fuzzy guidelines or responsibility. These are essentially peripheral problems. Our failure to control spending and balance the budget emanates primarily from a failure of will. Both the legislative and executive branches of Government have demonstrated repeatedly an unwillingness to stand against the political pressures to spend beyond our means. I believe legislators fail to meet this test primarily because they face pressures against which we provide no buffer—no insulation.

The Founding Fathers, actually aware as they were of the dangers of unbridled democracy—anarchy—on the one hand, and unbridled authoritarianism—dictatorship—on the other, would be horrified to find today how little remains of the insulation from the whims of pressure groups and the "body politic" in general which they rightly deemed so important to reasonable and successful government.

I have a considerable quarrel with people who advocate more Federal Government than I believe in—more so; this is, that I find authorized in the Constitution. I would have somewhat less quarrel with the advocates of big government, however, if they had the courage to collect the taxes necessary to pay for the programs they want to "give" the people. They do not. Invariably they want to spend now and let someone else pay later. In short, they are susceptible to the vast array of pressures to spend, against which there are presently almost no balancing pressures not to spend.

Out in Nebraska, we have a pay-as-you-go system. We have it not because our politicians are peculiarly wise and good, not because they are less susceptible to political pressures than lawmakers elsewhere, but because our Founding Fathers wrote into the State constitution a provision that requires the State to live within its income. I propose the adoption of that same principle for the Federal Government.

My proposal would require the President to submit a balanced budget to the Congress. If his estimate of receipts exceeded his request for spending, he would be required to calculate the required amount of surtax that it would take to put his budget in balance. If the Congress approved the President's budget as is, the surtax would automatically go into effect. The Congress could, however, reduce expenditures, or impose some other kind of tax to put the budget in balance, or they could let the surtax go into effect.

The President's estimates may be in

error or the Congress may vote much more spending than was recommended in the President's budget, so the proposal provides that at two later times during the year the Speaker of the House shall make an estimate of the spending authorized and the receipts, and if there will be a deficit, he must find the amount of surtax necessary to make up the deficit. If this deficit is not otherwise taken care of, this surtax automatically goes into effect.

This proposal would mean that if we are to spend, we have to collect the taxes. I believe it will result in reduced spending. The provisions of the amendment can be set aside with a three-fourths vote of Congress in times of emergency or a declaration of war.

Mr. President, I do not view this proposal as the whole answer. I strongly favor many of the concepts outlined in other proposals for restricting the congressional budget review and control procedures. Such reforms are properly the subject of legislative action and should not be spelled out in the Constitution.

I am not one who takes lightly the concept of amending our Constitution. It has, in fact, probably been amended too much already. But we are dealing here with a problem which has now plagued us almost constantly for over a third of a century, and, unless we take drastic action, it will only get worse. My analysis is that no simple legislative remedy will cure the problem for the reason I have already stated: Legislation can be repealed or supplanted by a simple majority of Congress at any time and legislation which is not self-implementing can be ignored by Congress—as we now regularly ignore the legislative mandate to adjourn each session by June 30, except in time of national emergency. Assume, for example, that a Committee fails to make a report or take an action mandated of it, or fails to do so in a timely fashion. What can be done? We are all too familiar with the many acts of Congress which require reports of various executive branch agencies and how often those reports are not received by the date due, or are never received at all. If nothing is done when an executive agency ignores the mandate of Congress, what likelihood is there that Congress will effectively discipline its own committees when they violate budget reform mandates, especially when that violation may be in response to political pressures which affect the entire Congress?

Mr. President, I believe the resolution I am introducing today will meet this problem in a workable and practical way. If this constitutional amendment is passed by the Congress and approved by three-fourths of the States, it would clearly, fairly, and without chaos compel the Federal Government to spend only the money that comes in each year.

In closing I want to note that I have continued in this Congress the study of the cost of proposed legislation which I began in the last Congress. Later in the week I will have a rather astonishing report of what the study shows so far for the 93d Congress. I hope my colleagues will take a careful look at that report because, in my opinion, it adds substantial impetus to the need for the kind of amendment I am proposing today.

Mr. President, I ask unanimous consent that a copy of my joint resolution and a brief outline of its basic operational concept be printed in the RECORD immediately following my remarks.

There being no objection, the joint resolution and outline were ordered to be printed in the RECORD, as follows:

S.J. RES. 142

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. On or before the fifteenth day after the beginning of each regular session of the Congress, the President shall transmit to the Congress a budget which shall set forth separately—

"(1) his estimate of the receipts of the Government, other than trust funds, during the ensuing fiscal year under the laws then existing;

"(2) his recommendations with respect to outlays to be made from funds other than trust funds during such ensuing fiscal year; and

"(3) if such recommendations exceed such estimate, a surtax rate which the President determines to be necessary to be applied with respect to the income tax of taxpayers to those portions of taxable years of taxpayers occurring during such fiscal year, so that such receipts will equal such outlays.

Such surtax shall be effective and so applied to such fiscal year except as otherwise provided in section 2 of this article.

"SEC. 2. During the first quarter of each fiscal year, and during the third quarter of each fiscal year, the Speaker of the House of Representatives shall—

"(1) estimate the receipts of the Government, other than trust funds, during such fiscal year;

"(2) estimate outlays to be made from funds other than trust funds during such fiscal year; and

"(3) (A) if such estimate of outlays exceeds such estimate of receipts, determine a surtax rate which the Speaker considers necessary to be applied, with respect to the income tax of taxpayers, to those portions of taxable years of taxpayers remaining in such fiscal year, so that such receipts will equal such outlays; or

"(B) if such estimate of outlays equals such estimate of receipts, determine that no surtax rate is necessary to be applied.

Any such determination shall be effective, and so applied, with respect to the remainder of such fiscal year commencing on the first day of the first month commencing at least 30 days after such determination by the Speaker. The surtax rate determined by the President under section 1 of this article shall not thereafter be applied commencing with such effective date.

"SEC. 3. During the last month of each fiscal year, the President shall review whether the receipts of the Government, other than trust funds, for such year will be less than the outlays other than trust funds for that fiscal year. If he finds that such receipts are going to be less than such outlays, he shall determine a surtax rate which he considers necessary to be applied with respect to the income tax of taxpayers, so that taxes received by the Government from such surtax, when added to other receipts of the Government, will equal such outlays. Such surtax shall be effective, and so applied, as determined by the President only during the next succeeding fiscal year. The surtax effective and applied uuder this section is in addition to any other surtax that may be effective and applied under this article and may not be superseded or modified under section 1 or 2 of this article.

"SEC. 4. The provisions of sections 1, 2, and 3 of this article may be suspended in the case of a grave national emergency declared by Congress (including a state of war formally declared by Congress) by a concurrent resolution, agreed to by a roll call vote of three-fourths of all the Members of each House of Congress, with each such resolution providing the period of time (not exceeding one year) during which those provisions are to be suspended.

"SEC. 5. This article shall take effect on the first day of the calendar year next following the ratification of this article.

"SEC. 6. The Congress shall have power to enforce this article by appropriate legislation."

BASIC OUTLINE OF PROPOSED CURTIS AMENDMENT: A CONSTITUTIONAL AMENDMENT FOR BUDGET CONTROL

(1) When the President submits his budget at the beginning of each year (e.g., in January, 1974), he must include an estimate of the income surtax necessary to cover any deficit in the proposed budget (i.e., the budget for FY '75).

(a) If he submits a deficit budget, Congress must either—

(i) find other ways of financing the deficit in that fiscal year,

(ii) reduce expenditures, OR

(iii) the surtax automatically goes into effect (for FY '75).

(2) Twice later, in the first and third quarters of the fiscal year for which the budget is effective (e.g., FY '75), the Speaker of the House must again estimate income, outlays and (if that estimate shows a deficit) the amount of surtax necessary to cover the deficit.

(a) Thus, if the President has miscalculated

OR

If Congress has acted in such a way as to create or increase a deficit,

THEN

(i) Congress must enact some other method of raising the necessary revenue, or

(ii) Congress must reduce expenditures, or

(iii) Congress must impose an additional surtax which goes into effect automatically (for the remainder of FY '75), sufficient to cover the additional deficit.

(3) At the end of the Fiscal Year (i.e., FY '75), the President makes a final estimate of income and outlays and any necessary adjustment in the surtax to cover any actual deficit.

(a) Again the surtax is automatic, but this time it is imposed in the succeeding fiscal year (FY '76).

(b) This surtax is in addition to any surtax which may prove necessary to meet a deficit in the budget for the succeeding fiscal year (i.e., FY '76) as a result of a deficit budget proposed by the President (in January 1975) or a deficit situation created by the Congress through the enactment of legislation.

(4) The automatic surtax can be rescinded in a deficit situation under only two circumstances.

(a) By a formal declaration of war by Congress.

(b) By a national emergency, formally

declared as such by the Congress by a three-fourths-vote.

(5) Any declaration of war or national emergency is effective for only one year and, unless renewed annually by the prescribed vote of the Congress, the emergency lapses and any deficit is again required to be funded by the automatic surtax provisions unless otherwise accommodated by Congressional action increasing the revenue or reducing spending.

(6) Trust funds would not be considered a part of the regular budget and surpluses in those trust accounts would not be applicable toward offsetting any deficit in the regular budget.

ADDITIONAL COSPONSORS OF BILLS

S. 1434

At the request of Mr. ROTH, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1434, to amend the Internal Revenue Code of 1954 to disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer.

S. 1520

At the request of Mr. ROTH, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 1520, to establish a commission to study all laws, and executive branch rules, regulations, orders, and procedures, relating to the classifications and protection of information for the purpose of determining their consistency with the efficient operation of the Government, including the proper performance of its duties by the Congress.

S. 1812

At the request of Mr. MCINTYRE, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1812, a bill to improve the coordination of Federal reporting services.

S. 2058

At the request of Mr. MONDALE, the Senator from Connecticut (Mr. WEICKER), was added as a cosponsor of S. 2508, to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, and for other purposes.

S. 2139

At the request of Mr. PROXMIRE, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 2139, concerning the falsification of statistics.

S. 2147

At the request of Mr. DOMENICI, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2147, to conduct a study relating to the procurement and use by the Federal Government of products manufactured from recycled materials.

S. 2200

At the request of Mr. CRANSTON, the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Oregon (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 2200, the Right to Financial Privacy Act.

S. 2280

At the request of Mr. PERCY, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 2280, to amend the Internal Revenue Code of 1954.

AMENDMENT OF COMMUNICATIONS ACT OF 1934—AMENDMENT

AMENDMENT NO. 446

(Ordered to be printed, and to lie on the table.)

Mr. MAGNUSON. Mr. President, on the calendar is S. 1841, Calendar 330, which deals with the broadcasting of football games. Whether we shall take that up before the adjournment or not, I do not know; but I am submitting an amendment to that bill to be printed. I send it to the desk at this time.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. MAGNUSON. I ask that the amendment not be read, but merely printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

AMENDMENT NO. 446

On page 2, line 5, strike "forty-eight" and insert in lieu thereof the following: "seventy-two".

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 447

(Ordered to be printed, and to lie on the table.)

Mr. BENTSEN. Mr. President, I submit an amendment to S. 2053, a bill to amend the Export Administration Act of 1969 and ask that its text be printed in full in the RECORD.

My amendment would require the President to fully consider established and historical trading patterns in imposing any export controls which may be necessary as a result of abnormal foreign demand or domestic scarcity.

The amendment does not establish rigid historical quotas but it is a clear expression of congressional intent that, if our exports must be limited, established markets are to be given some preference over new and uncertain ones.

Mr. President, I am an advocate of expanding U.S. exports, not restricting them. But we must be in a position to adjust to world economic conditions when periodic foreign demand threatens to drain the U.S. cupboard bare.

I believe that our agricultural section can expand its production to meet our domestic needs as well as a substantial portion of the needs of the rest of the world. Nevertheless, bad harvests in many areas of the world have combined with a great increase in demand for protein and grain to place pressure on U.S. supplies and aggravate already high food prices.

We have already been forced to impose export controls on last year's crop of soybean and oil seed products. Rumors of export controls for wheat and feed grains drove the price for these products down the limit on the commodity markets this past Friday.

Over half of the new wheat crop has already been sold for export and a new sale of 500,000 tons of wheat to the People's Republic of China was reported yesterday. It is apparent that demand for the limited supply of U.S. wheat and other grains is increasing.

If export controls are imposed on these products, who should be denied access? In a hungry world whose order should go unfilled?

Mr. President, I believe that the equitable way to distribute prime commodities is to give consideration to previous trade patterns. Article XIII of the General Agreements on Tariff and Trade says that when all buyers cannot be served, the most equitable way of allocating supplies is on an historic basis. Japan, England, and Germany have long been purchasers of American farm produce. While our trade must be flexible enough to meet demands for new markets such as China and the Soviet Union, we must not forget our traditional trading partners with whom we have spent decades building commercial ties. For example, we have furnished over 90 percent of the soybeans consumed in Japan for the last 10 years. Now we are forced to ration soybeans to Japan because the Soviet Union bought 40 million bushels last fall. These export controls will have an adverse effect on our exports for some time. If we cannot guarantee a continuing supply to our established customers, other countries are more than ready to step into our markets. Brazil is already planting soybeans at such a rate that some Brazilian officials are warning that the country's coffee production is being reduced in order to plant soybeans. Brazil is actively seeking new markets at a time that we are limiting sales to the Japanese.

In addition, if export controls are extended to wheat and other grains without consideration of existing trading patterns, the Japanese may turn to the Australians with whom China has recently suspended purchases for political reasons. Mr. President, last year this country experienced a trade deficit with Japan of over $4 billion. We need to not only maintain, but to increase the levels of our exports to that country.

If agriculture is to bear an increasing role in balancing our trade accounts, then stable and reliable markets must be found and maintained.

If trade relations are suspended, there is no guarantee that they will be reestablished. Export controls under the best circumstances cause our traditional foreign buyers to look elsewhere. But export controls which do not give proper consideration to existing trading patterns will permanently damage American exports. What country wants to place its reliance in a trading partner who, after demanding that you purchase more of its products for years, suddenly imposes re-

strictions without some preference for previous trading relations.

Mr. President, we must assure Japan, as well as our other established trading partners, that we are serious about protecting our commercial ties during periods of shortages. I believe that my amendment, if adopted and complied with, will give those trading partners that assurance.

The application of shortrun controls should not be allowed to undermine the long-range advantage to our Nation of continuing mutually beneficial exchanges in world trade.

ADDITIONAL STATEMENTS

RIPPING COAL FROM THE NORTHERN PLAINS

Mr. MANSFIELD. Mr. President, as my colleagues here in the Senate know, Senator METCALF and I are deeply concerned about the potential damage and harm that may come to eastern Montana as a result of unregulated surface coal mining. Montana has a tremendous resource and we are confident that we can participate in the effort to meet the energy crisis. However, this can be done only after detailed preplanning and regulated development. The State of Montana has enacted some very strong laws, and it is our hope that when the Senate returns after the August recess, that one of the first major pieces of legislation to be considered will be S. 425, the Federal mine reclamation legislation. It is essential that the bill be sent to the President prior to adjournment.

The July issue of Audobon magazine contains an excellent analysis of the strip mining situation, the problems, the benefits and the need to recognize individual interests. The article was written by Alvin M. Josephy, Jr., a leading authority on Indian affairs, a consultant to several administrations and the Vice-President of the American Heritage Publishing Co. Mr. Josephy is well informed in these developments in Montana and the neighboring States of Wyoming and the Dakota's.

The Audubon article entitled "Ripping Coal from the Northern Plains" was the subject of Edward P. Morgan's news commentary on ABC News on July 25.

Mr. President, I ask unanimous consent to have Edward P. Morgan's commentary printed at this point in my remarks in the RECORD, to be followed by the text of the Josephy article from the July issue of Audubon. Also, the Audubon article was repeated in the Sunday, June 29 issue of the Washington Star News.

There being no objection, the commentary and article was ordered to be printed in the RECORD, as follows:

EDWARD P. MORGAN'S NEWS COMMENTARY

This is Edward P. Morgan, ABC News Washington, with the Shape of One Man's Opinion. A look at American greed after this word.

What we continue to do to our country is criminal but nobody calls it a crime until it is too late. Modern robber barons are laying waste to millions of acres of land in Montana, Wyoming and the Dakotas in a colossal "coal rush", precipitated by the nation's so-called energy crisis, perhaps more aptly called an energy panic.

Undeniably we do need more energy and that northern tier of four states contains the richest known coal deposits in the world—an estimated trillion and a half tons deep underground and another 100 billion so close to the surface it can be readily scooped up by strip mining.

So we need more power and there's the source. But instead of orderly development, coordinated with government agencies on all appropriate levels to measure the environmental impact, protect the vital water supply and resident ranchers of the region, this is rape, the ruthless eviction of old settlers, the swindling of Indian tribes for the mining rights on their reservations and the old story of politicians playing ball with big business for "progress."

Politics is less involved in the Dakotas, whose stake in the coal strike is a smaller slice of the pie. Montana's leading elected officials, including Senators Mike Mansfield and Lee Metcalf, the governor and key state agencies have been trying with some effect to stem the land-grab chaos. In contrast, Wyoming's governor, a majority of the state legislature and at least one U.S. senator reportedly are happily abroad the exploiters' bandwagon, singing the theme song of boosting Wyoming's economy—and the devil take the devastating ecological consequences.

It's a big story, which has been building for at least three years, but very little critical media attention has been given to it in the four states involved. For too long, most newspapers and broadcasting stations in the area have been basically interested in the "establishment" side of the story—the classic American syndrome reflecting the virtues of wealth and indiscriminate growth to get it—never mind the disruptions so long as "we get ours." The coal rush has national ramifications. There is something wrong with media news judgment when, despite the legitimate distraction of Watergate, papers like the Washington Post, the New York Times and the Los Angeles Times have given it little or no attention. It is ironic that the first major expose of the situation should appear in a nature magazine, the July issue of Audubon. The heartbreaking "Agony of the Northern Plains," is described by Alvin M. Josephy Jr., an authority on American Indians, the West, and what corporate greed and governmental listlessness are doing to them both.

It's must reading, if you don't mind getting angry.

I'll have a footnote in 30 seconds.

In his Audubon magazine article, Alvin Josephy holds out some hope of restraining corporate rape of the land in the coal rush, despite spectacular lack of action by the federal government. Environmnentalists are pushing a number of lawsuits but court action is tortuously slow and meanwhile, "each week new projects are announced, the hurried pattern of development grows more chaotic, and the threat to the northern plains increases."

RIPPING COAL FROM THE NORTHERN PLAINS

In October 1971, a "coordinating committee," composed of the U.S. Bureau of Reclamation and 35 major private and public electric power suppliers in 14 states from Illinois to Oregon, issued a dramatic document. Innocuously titled the North Central Power Study, it stunned environmentalists throughout the country and sent waves of horror among the ranchers, farmers, and most of the townspeople of the northern plains. Rushed through in a little over a year (the project was initiated in May 1970 by the then Assistant Secretary of the Interior for Power and Water Development, James R. Smith), and reflecting the goals and points of view of utility interests that were in business to sell electricity, the study proposed a planned development and employment of the coal and water resources of some 250,000 square miles of Wyoming, eastern Montana, and western North and South Dakota for the generation of a vast additional power supply for the United States.

The scope of the proposal was gargantuan—rivaling the grand scale of the region itself. One of the most serene and least spoiled and polluted sections of the nation, it averages about 4,000 feet above sea level and stretches below the Canadian border roughly from the Badlands and Black Hills in the east to the Bighorn Mountains in the west. It is a huge, quiet land of semiarid prairies, swelling to the horizon with yellow nutritious grasses; rich river valleys, lined with irrigated farms; low mountains, buttes, and rimrock ridges dark with cedar and ponderosa pine; open, windswept plains covered with sagebrush, greasewood, and tumbleweed; and hundreds of meandering creeks edged with stands of cottonwoods. The rains average only 12 to 14 inches a year, the topsoil is thin and fragile, easily eroded and blown or washed away, and the vegetation in most places must struggle for life. Towns and cities are small and few and far between, and distances measured along the infrequent highway and ribbons of railroad track are great. For almost a hundred years the natural grasses and irrigated hayfields have sustained big flocks of sheep and herds of cattle, and the region has been one essentially of large, isolated ranches and farms, whose owners have fought endlessly against blizzards, drought, high winds, and grasshoppers—and have treasured their independence and the spaciousness and natural beauty of their environment.

Ominously for them, the surface of their part of the country sits atop the Fort Union Formation (in the Powder River Basin of Wyoming and Montana and in the western part of the Williston Basin of Montana and the Dakotas), containing the richest known deposits of coal in the world. There are at least 1.5 trillion tons of coal within 6,000 feet of the surface, and perhaps more than 100 billion tons so close to the surface in seams 20 to 250 feet thick—as to be economically recoverable today by the relatively cheap modern techniques of strip-mining. This is, staggeringly, 20 percent of the world's total known coal reserves and about 40 percent of the United States' reserves. (The total national figure would be able to supply the country for an estimated 450 to 600 years should the present use trend continue.) But perhaps even more significantly, in view of recent environmental concerns, the sulfur content of these deposits of high-quality subbituminous coal in Montana and Wyoming and lesser-grade lignite in northeastern Montana and North Dakota is low enough to meet the new air pollution standards for coal-burning powerplants in urban areas.

In the past, very little of the northern plains coal has been mined, principally because of its comparatively lower BTU heat content and its distance from major markets, which made it less desirable competitively than Eastern coal. But by May 1970 the need for low-sulfur coal in the cities was hurrying a change in that thinking. In addition, an energy panic was in the offing—a panic concerned more with sources of future supplies of conventional fuels than with conservation, realistic planning and pricing, dampening of demand, and the development of alternative, non-polluting fuels. A large-scale (though little-publicized) rush to acquire exploration permits and leases for the low-sulfur coal in the northern plains—together with plans on how to maximize short-term and long-range profits from the enormous deposits—was already stirring the energy industry. It appeared evident that

national policy, guided by the industry, would inevitably encourage the exploitation of the Western states' coalfields as an answer to the apparently diminishing supplies of fuels from elsewhere, the threat of growing dependency on the oil-producing nations of the Middle East, and powerplant pollution in the cities. So, strict overall government planning and regulation were necessary if the imposition of coal-based industrialization on the traditional farming-ranching economy and environment of the North Central states was not to bring disaster to the area and its people.

Viewing this as a mandate, the Department of the Interior and the 35 cooperating utilities launched their study. There were few persons in the affected region who were not already aware of the increasing attention being given to their coal; indeed, many landowners were already being subjected to the pressures of lease brokers, speculators, and coal companies. But the threat to the region as a whole was not yet visible, and the implications of the stupendous changes that the coal reserves would bring to the lives and environment of the people were not even dreamed of. The release of the North Central Power Study shattered that innocence.

Together with an accompanying document that dealt with the utilization of the region's water resources for the proposed coal development, the study suggested the employment of strip-mines in Montana, Wyoming, and North Dakota to supply massive amounts of coal to fuel minemouth powerplants, which by 1980 would produce 50,000 megawatts of power, and by the year 2000 approximately 200,000 megawatts. The power would be sent east and west over thousands of miles of 765-kilovolt transmission lines to users in urban areas. The study located sites for 42 powerplants—21 in eastern Montana, 15 in Wyoming four in North Dakota, and one each in South Dakota and Colorado. Their suggested sizes were mind-boggling. No fewer than 13 of them would generate 10,000 megawatts each (about 14 times as much as the original capacity of the Four Corners plant in New Mexico, much criticized as the world's worst polluter, and almost five times more than the 2,175 megawatts which that plant is now capable of generating). Other plants would range from a 1,000- to 5,000-megawatt capacity, in addition, 10 of the proposed giant 10,000-megawatt plants would be concentrated in a single area, 70 miles long by 30 miles wide, between Colstrip, Montana, and Gillette, Wyoming; another group, with a combined capacity of 50,000 megawatts, as targeted for another area close by.

To supply some 855,000 acre-feet of cooling water (an acre-foot is enough to cover one acre with one foot of water) which would be needed each year by the plants at the 50,000-megawatt level, the study proposed a huge diversion of water from the rivers of the Yellowstone Basin, requiring a large system of dams, storage reservoirs, pumping heads, and pipeline aqueducts to be built by the Bureau of Reclamation. As if that were not enough, the water resources document went further, envisaging—with great realism, as it has turned out—the construction of immense coal gasification and liquefaction plants and petrochemical complexes, located near the strip-mines and powerplants, and raising the need for water to at least 2,600,000 acre-feet a year.

Once they got over their shock at the stupendous dimensions of what was being proposed, environmentalists set to work dissecting the study. It was entirely oriented to the producer of electricity and dealt scarcely, or not at all, with such overwhelming problems as air, water, and noise pollution, strip-mining and the reclamation of ravaged land, the diversion of major rivers and resultant conflicts over water rights in the semiarid country, the degradation of the human and natural environments, the disruption of the region's economy, soil erosion, the destruction of fish and wildlife habitat, and the explosive influx of population with attendant social and economic strains and dislocations that would follow the carrying out of the project's individual schemes. Dr. Ernst R. Habicht Jr. of the Environmental Defense Fund found the plan almost unbelievable, pointing out that it called for the generation of "substantially more electricity than is now produced either in Japan, Germany, or Great Britain (and would be exceeded only by the present output of the United States or the Soviet Union)." The 855,000 acre-feet of water needed annually, just for the 50,000-megawatt goal, Habicht noted, was more than half of New York City's annual water consumption, and if the need rose to the proposed 2,600,000 acre-feet, it would exceed "by 80 percent the present municipal and industrial requirements of New York City (population 7,895,000)." Moreover, in wet years, the mammoth diversion would reduce the flow of the Yellowstone River by one-third, and in dry years by about one-half. "Water use of this order of magnitude in a semiarid region . . . will have significant environmental impacts," the scientist warned. "Extreme reduction in river flows and the transfer of water from agricultural use will drastically alter existing agricultural patterns, rural lifestyles, and riverine ecosystems."

All of this the study had, indeed, overlooked, but there was more. Analysis showed that coal requirements for the 50,000-megawatt level in 1980 would be 210 million tons a year, consuming 10 to 30 square miles of surface annually, or 350 to 1,050 square miles over the 35-year period, which the study proposed for the life of the powerplants. At the 200,000-megawatt level, the strip-mines would consume from 50,000 to 175,000 square miles of surface during the 35-year period. In addition, each coal gasification plant, producing 250 million cubic feet of gas per day, would use almost eight million tons of coal a year, eating up more land, as well as 8,000 to 33,000 acre-feet of water (estimates vary widely) and 500 megawatts of electric power.

The astronomical figure continued. At the 50,000-megawatt level, nearly three percent of the tri-state region would be strip-mined, an area more than half the size of Rhode Island. The transmission lines would require approximately 8,015 miles of right of way, which, with one-mile-wide multiple-use corridors, would encompass a total of 4,800 square miles, approximately the size of Connecticut. Power losses over the network of lines would exceed 3,000 megawatts, greater than the present average peak demand requirements of Manhattan, and would raise a serious problem of ozone production.

A population influx of from 500,000 to 1,000,000 people might be expected in the tri-state area. (The present population of Montana is 694,000; Wyoming, 332,000; and North Dakota, 617,000.) Half a million newcomers would mean a 500 percent increase in the present population of the coal areas and would result in new industrial towns and cities, putting added pressures on the states for public services and increased taxes. The quality of life, as well as the environment, would change drastically. At the 50,000-megawatt level, the proposed plants, even with 99.5 percent ash removal, would fill the air with more than 100,000 tons of particulate matter per year, detrimental to visibility and health. The combustion of the coal would introduce dangerous trace elements like mercury into the atmosphere; and the plants would emit at least 2,100,000 tons of sulfur dioxide (yielding, in turn, sulfurous and sulfuric acids that would be deposited by the wind on farms, ranches, communities, and forests) and up to 1,879,000 tons of nitrogen oxides per year. Though the study ignored the prospect, living in the Colstrip-Gillette area, with ten 10,000-megawatt powerplants, not to mention an unspecified number of coal gasification plants as neighbors, could be lethal.

If the simplistic report, blithely ignoring the need for scores of impact studies, bewildered environmentalists, it sent peals of alarm among many of the people of the three states. The powerful energy companies and utilities of the country, with the encouragement of the federal government, were going to turn them into an exploited and despoiled colony, supplying power to other parts of the nation. Far from planning the orderly development of their region, the study had considered only the needs of industry and, without publicity, without public hearings, without representation from, or accountability to, those who would be affected, had shown a green light to the devastation of life on the Great Plains.

Throughout the region, individuals were soon comparing notes and discovering that a coal rush of gigantic proportions was, indeed, already under way. Lease brokers, syndicate agents, and corporate representatives—many of them from places like Louisiana, Texas, and Oklahoma, with a long experience of wheeling and dealing in gas and oil rights—had been swarming across the plains country, and more coal lands than anyone had dared imagine were already locked away in exploration permits and leases. Ranch owners found out with a start that neighbors had already signed agreements, and that a strip-mine and powerplant might soon be disturbing their cattle or destroying their range. Irrigation farmers learned of corporations from Pennsylvania, Ohio, and Virginia buying options on the limited supplies of water, and worried about their own water rights. The areas of busiest activity matched the study's proposed sites for development, and rumors multiplied of industrial plans and commitments being so fast that they could not be stopped. In half a dozen districts in Montana and Wyoming that seemed most threatened, ranchers and farmers hastily organized landowners' associations, which banded together as the Northern Plains Resource Council—a loose federation based with volunteer officers and staff in Billings, Montana—to pool their information, pledge landowners to hold out against the strippers, and contest the coal interests in the courts and the state capitals.

From the start, opposition to the coal development was hobbled by a lack of reliable knowledge of what was going on. In the first place, it soon became evident that the coal and energy companies that were buying up the land and making plans to exploit the region had rejected the proposals of the North Central Power Study even before the document had been made public, and were proceeding, instead, on a voracious, every-developer-for-himself basis. Alarming as the suggestions of the Bureau of Reclamation and the utilities had been, they had nevertheless reflected the federal government's desire to guide development according to a comprehensive and orderly plan. Even the critical environmentalist groups had recognized that, if coal development was inevitable, the study was something with which to work—a plan susceptible to detailed examination and protective actions and modifications that would ensure a minimal degradation of the human and natural environments.

Now the study was nothing but a checklist of some—but far from all—of the opportunities for the fastest corporations with the most dollars. Aside from alerting the region's

people to the scope of the calamity they faced, the study's effect was to draw additional attention in Wall Street and elsewhere to the possibilities of the immense coalfields and accelerate what was becoming a frantic, modern-day version of the California Gold Rush. By October 1972 the guideline aspects of the study were dead, and Secretary of the Interior Rogers C. B. Morton, aware of the concern in the region over the chaotic exploitation taking place, announced the formation of an interagency federal-state task force and the launching of a Northern Great Plains Resource Program to assess the social, economic, and environmental impacts of the coal development and, hopefully, "coordinate on-going activities and build a policy framework which might help guide resource management decisions in the future."

It was pretty much a case of locking the barn door after the horse was stolen. The 1971 study had been issued well after the coal rush had started, and the new study group—which was criticized because it did not provide fully enough for the participation of the public—would not release its final report until December 1975, although results were expected to be "incorporated into regional planning and decision-making by the end of the first year," or October 1973. In view of the rapid developments taking place, even this seemed too late. Regional planning by then would be almost impossible.

Meanwhile, other factors were adding to the confusion. Without the overall guidance, planning, or authority of any federal or state agency, it became difficult for anyone, including state officials, to assemble accurate and comprehensive information about who was acquiring what rights and where, and what they intended to do with them. The roster of those who were buying coal deposits read like a who's who of the energy industry: Shell Oil, Atlantic Richfield, Mobil, Exxon, Gulf, Chevron, Kerr-McGee, Carter Oil, Ashland Oil, Consolidation Coal (Continental Oil), Peabody Coal (Kennecottt Copper), Westmoreland Coal, Reynolds Metals, North American Coal, Kewanee Oil, Kemmerer Coal, Concho Petroleum, Island Creek Coal (Occidental Petroleum), Cordero Mining (Sun Oil), Arch Minerals, Hunt Oil, Pacific Power & Light, Valley Camp Coal, Penn Virginia Corporation, National Gas Pipeline (Star Drilling), Farmers Union Central Exchange, Cooper Creek, and Western Standard.

They were all there, but so, also, were subsidiaries, subsidiaries of subsidiaries, fronts for bigger names, syndicates, partnerships, speculators, and lease brokers. Rights were acquired by a firm named Meadowlark Farms, suggesting to the public the bucolic image of dairy cows and buttercups rather than a coal strip-mine. The company was a subsidiary of Ayrshire Coal Company, formerly Ayrshire Collieries Corporation, which with Azure Coal Company was owned by American Metal Climax's Amax Coal Company. The worldwide construction firms of Peter Kiewit Sons in Omaha, Nebraska, and Morrison-Knudsen Company in Boise, Idaho, also held rights; the former, moving into Montana in a big way, owned the Big Horn and Rosebud Coal companies and half of Decker Coal Company, and the latter held 20 percent of Westmoreland Resources. There were names relatively unfamiliar to the public: Temporary Corporation, Tipperary Resources, Pioneer Nuclear, J&P Corporation, Ark Land Company, Badger Service Company, Allied Nuclear Corporation, BTU Inc., as well as dozens of individuals like Violet Pavkovich, Fred C. Woodson, E. B. Leisenring Jr., Billings attorney Bruce L. Eennis, and lease brokers Jase O. Norsworthy and James Reger.

All of them, to a greater or lesser extent, were engaged competitively, and the securing of permits and leases and the making of plans and commitments for exploitation were done with great secrecy. But the necessity to conceal activities and intentions from rivals also frustrated interested officials and the public, who were kept in the dark about plans for such projects as strip-mines, power-plants, new railroad spurs, water purchases, and coal gasification plants—all of which would affect their environment and lives—until the companies were prepared to announce them. By that time, commitments had been made, and though clues to some of the projects—like the number of companies or the amount of capital involved, the large size of a water pipline, or the required tonnage of coal—implied immense undertakings with serious impacts on the people and environments of large areas, questioners had to grapple for detailed and meaningful information and were at a disadvantage.

Perhaps the greatest confusion stemmed from the complex ownership rights to the coal and the land surface above it. Some of the coal is owned by the federal government and is administered by the Bureau of Land Management. Some is owned by the states; some by the Union Pacific or Burlington Northern railroads (though their legal rights to the coal, acquired originally with the railroad land grants of the last century, are being questioned by certain congressmen and organizations); some by Indian tribes (the Crow, Northern Cheyenne, and Fort Peck reservations in Montana and the Fort Berthold reservation in North Dakota); and some by private owners. A purchaser may secure an exploration permit or lease for the coal; but to get at it, he also has to deal with the owner of the surface—which frequently produces a problem. The surface rights, again, might be owned by the federal government, the states, the railroads, the Indians, or private owners. Where the same interest owns both the surface and the coal and is willing to part with them, there is no complication. But more often than not, private ranchers own or lease land above coal that does not belong to them. In the past, they or their forebears might have gotten their land from the federal government (under the various Homestead Acts) or from the railroads, but in both cases the government and the railroads reserved the mineral rights, including the coal, for themselves. Similarly, when the Crow Indians ceded some of their land to the government in 1904 and the government opened it to white settlers, the government retained the mineral rights. But in 1947 and 1948 it returned those rights to the Crows creating a situation of Indian tribal ownership of coal under white-owned ranches.

Strip-mining was not a concern when the original homesteaders bought their lands. If the coal were ever to be mined, they and the sellers undoubtedly envisioned deepmining, which would have disturbed only a small part of the surface. A strip-mine is a different matter, for it eats away the pasture, range, and farmland, and buildings that constitutes one's home and means of livelihood. The question of the surface owner's rights versus the rights of the purchaser of coal beneath his land is a matter of contention and will inevitably be tested in the courts. But the necessity of acquiring separate items of coal rights and surface rights from different owners (and sometimes when trying to create a large compact block of coal—from several different adjoining owners of both the coal and the surface) introduced bitter conflict and more confusion to the harassed region.

In Montana, a surface condemnation law that favored the coal purchasers made the situation worse. Under the influence of the Anaconda Company, which had wished to condemn land for copper mining at Butte, that state in 1961 had declared mining a "public use" and had given mineral companies the right of eminent domain. Speculators, lease brokers, and agents of corporations acquiring coal rights—sometimes even before they had bought the coal—now abused that law. They frightened many Montana landowners into signing exploration permits and leases or selling their lands on the purchaser's terms ("better than you'll get from any court"), and threatened condemnation proceedings against those who resisted. Episodes of angry confrontation and near-violence multiplied as the purchasers—nervously eyeing the progress of competitors and aware of large secret corporate plans that depended on timely acquisitions—pressured the landowners.

The unpleasantness visited on the Boyd Charter family in the Bull Mountain region north of Billings is typical of many small, human agonies. The Bull Mountain area is a particularly fragile one, a grassy parkland whose irregular topography includes rimrock walls and picturesque hills covered with dense growths of ponderosa pine. Because coal seams are exposed on rock walls and outcrop on the hillsides, contour stripping—the most destructive of all opencut techniques—probably would be necessary, and reclamation to restore the present natural beauty and scenic values would be virtually impossible. A Montana Coal Task Force, established by the state government in August 1972, urged that no strip-mining be permitted there unless a severe national coal shortage occurred in the future (an unlikely event for half a millennium), and Montana's Senator Mike Mansfield singled out the area as one district of the state in which strip-mining should be banned outright.

Nevertheless, the Bull Mountain area contains approximately 130 million tons of coal, the rights to which were quietly purchased by Consolidation Coal Company in permits and leases from Burlington Northern railroad and the State of Montana. Owned by Continental Oil Company (whose chairman, John G. McLean, also head of the National Petroleum Council, has been in the forefront of industry leaders warning of an energy crisis and advocating governmental encouragement of Western coal development), Consol, as the coal company is known, plans an $11.5 million strip-mine in the Bull Mountains, to be worked over a 25-year period. Its initial production would be about two million tons a year, but the figure would rise. For the present, there are no plans for a mine-mouth powerplant, and there is not enough coal to sustain a coal gasification development. Most of the coal would be shipped by train to customers in the upper Mississippi Valley, and a total of some 3,500 acres of the Bull Mountains would be subject to mining for those distant users, with additional acreage being disturbed by roads, installations, and the operations of the miners.

Though Consol officials recently made verbal promises to reshape the stripped land "to a contour similar to and compatible with its virgin contour, to save and replace topsoil, to revegetate, fertilize, and continue reclamation work, with as many replantings as necessary, until reclamation is successful," the company's leases, reflecting a traditional looseness in state and federal regulations, bound them to no such obligations. For instance, a lease made with Montana on June 3, 1970, for 640 acres of state-owned coal in the Bull Mountains merely obliged Consol "so far as reasonably possible" to "restore the stripped area and spoil banks to a condition in keeping with the concept of the best beneficial use," adding vaguely that "the lessee may prescribe the steps to be taken and restoration to be made." A $1,000 bond accompanied the lease, considered hardly enough to guarantee the reclamation of one acre in that area.

In 1970 Consol set about purchasing the surface rights necessary to make exploration drillings and mine the Bull Mountain coal. Many of the people in the nearest town, Roundup (population 2,800), welcomed the development. Small-scale deep-mining had been done for many years in the Bull Moun-

tains; Tony Boyle, the former United Mine Workers president, had come from the area; and the townspeople, without landholdings at stake, saw prosperity for themselves in Consol's promises to spend $1,400,000 each year in the region and employ 80 men, whose needs, said the company, would generate 240 other jobs. To the Boyd Charters and other ranchers, however, plans for the strip-mine became a nightmare.

Originally from western Wyoming, the Charters and their three sons and a daughter ran cattle on approximately 20 sections of land, 10 of which they owned and the rest leased from the Burlington Northern. Without warning, they were visited one day by a land agent from Consol, who told them that the company had bought the coal beneath their land from the federal government and the railroad and now wanted to drill exploratory core holes preparatory to mining. He produced a form for them to sign, offering one dollar to release the company from any damages done to their property by the drilling. When the Charters refused to sign, the agent left them and made a tour of other ranches, relating, according to the word of one ranch owner, that the Charters had signed, and thus winning the agreement of a few of them.

The company thereafter began harassing the Charters. Higher officials, including a Consol regional vice-president from Denver and company attorneys, began showing up at their home, increasing the pressure on them, and gradually driving the family frantic with worry. After numerous sessions the visits stopped, and the Charters wondered if condemnation proceedings, under the Montana law, were to be instituted against them. Then, one morning, they heard a racket near their house. They ran out, discovered a Consol crew drilling core holes on a deeded part of their land, and ordered them to stop. A fat man, according to Boyd Charter, came over to them, threatening a fist fight. "I got as much ——— right on this land as you," he said. The infuriated Charters finally drove the crew off the property, and they have heard nothing more since then from Consol. But the company has tested all around the Charter ranch, it can get Burlington Northern to break the lease for its part of Charter's holdings, and it still intends to strip-mine the Bull Mountains in the near future. Far down the line from Continental Oil's national policy planner, John McLean, this small Montana ranching family is one of his victims.

Many similar conflicts have occurred elsewhere. Almost 150 miles by road southeast of the Bull Mountains, the Billings firm of Norsworthy & Reger helped Westmoreland Resources (a partnership of Westmoreland Coal, Kewanee Oil, Penn Virginia, Kemmerer Coal, and Morrison-Knudsen) assemble a package of rights to about one billion tons of very rich coal deposits at the head of Sarpy Creek for a huge strip-mine and at least one coal gasification plant. The area, a beautiful basin under the pine-covered Wolf Mountains in southeastern Montana, encompassed land ceded by the Crow Indians. White ranchers now owned the surface, but the tribe still owned the coal. In a series of transactions. Norsworthy & Reger and E. B. Leisenring Jr., a director of the Fidelity Bank in Pennsylvania, won permits for approximately 34,000 acres of Crow coal—apparently paying the Indians an average of $7.87 per acre and a royalty of 17.5 cents a ton for the first two years of production and 20 cents a ton for the next eight years—and then assigned their rights to Westmoreland Resources.

Surface rights still had to be won from the ranchers. Under threat of condemnation, some of them sold, but others resisted including the family of John Redding. Westmoreland and its agents became desperate for the Reddings' signatures. The company had plans to begin stripping in March 1974; a giant 75-cubic-yard walking dragline was under construction; contracts were being made to sell 76.5 million tons of coal over a 20-year period to four Midwestern utilities (Wisconsin Power and Light, Iowa's Interstate Power Company, Wisconsin's Dairyland Power Cooperative, and Minnesota's Northern States Power Company to fuel a 1,600-megawatt generating plant near Henderson, Minnesota), and a 10-year optional agreement for the delivery of a whopping 300 million tons of coal had been signed with Colorado Interstate Gas Company, which was planning to build up to four coal gasification plants in the region.

Moreover, the abundant and rich coal deposits guaranteed enormous growth potential in the value of the area. Consol was acquiring coal and surface rights nearby, with leases whose language implied coal gasification plants and a large-scale industrialization of its own, and just to the east was still another huge developing coal-and-power center at Colstrip, where Montana Power Company was building new power-plant units, two of whose transmission lines would come through the Sarpy district to Hardin, Montana. The region was going to become one of the principal new coal-based industrial centers in the northern plains, with a city of perhaps 25,000 people, and Westmoreland's plans and needs to assemble and invest capital required the combining of their package of coal and surface rights as quickly as possible.

On February 25, 1972, Billings attorney Bruce Ennis served written notice on the Reddings that unless they agreed to sell the entire, or necessary, portion of their ranch to Westmoreland at $137 an acre within one week, Westmoreland would begin condemnation proceedings against them. John Redding had come to Sarpy 56 years before, had lived in a tent, then a cabin, and finally had established a home, a family, and a 9,000-acre ranch. Through good years and lean, fighting the elements and the Depression, the Reddings had reflected the tradition of Westerners who treasured the place they lived because they could "stand tall and breathe free," and they now proved tougher than the coal company. Calling Ennis' bluff, they stood firmly over their property with gun in hand, and the company eventually backed away. "We've gotten enough people to agree that, at least for the time being, we don't have to go the condemnation route," Westmoreland's president, Pemberton Hutchinson, announced, "We needed to settle with eight landowners, and we settled with six—and that's enough." (Actually, at last count, there were still three holdouts, including one who claimed that a Westmoreland agent had told her, "You'll be down on your knees begging to sell." The lands of the holdouts are so strategically located as to split the coal company's surface rights and limit initial operations to a comparatively small tract.)

In four instances in a different area, but one connected with the Sarpy Creek development, landowners actually had condemnation proceedings instituted against them, but by Burlington Northern railroad, which is building a 37-mile spur line from its main tracks at Hysham, Montana, up Sarpy Creek to take out coal from the new Westmoreland mine. Ranchers and other landowners opposed the railroad's demands for right-of-way easements, often through the best parts of their land, and the conflicts became angry and tense. One woman, harassed by the railroad, suffered a nervous breakdown. Another, Mrs. Montana Garverich, 67 years old, a widow with 14 grandchildren and eight great-grandchildren, who had lived on her land since 1912 and still operated her 4,000-acre ranch with the help of some of the children, fended off attempts to take her bottomland and was hauled into a U.S. District Court by the railroad. When the court found in favor of the Burlington Northern. Mrs. Garverich announced she would appeal, and the railroad, not relishing further action and its attendant publicity, rerouted its line in several places and dropped its suits.

As might be expected, hundreds of landowners in the three states, willingly or unwillingly, have already leased or sold their surface rights. Some, getting on in years and tired of strenuous, often harsh, existence on the plains, did so happily, taking what they could get and planning on retirement to an easier life somewhere else. Others became frightened, were cajoled, or failed to understand what was involved, and signed whatever was asked of them, while still others hired lawyers, dickered back and forth, and finally felt they had outsmarted the purchaser and had gained a good deal for themselves. On the whole, the negotiated terms differed from one lease to another, depending on how badly a company wanted a particular right and how resistant the owner was. One rancher may have given up all his rights for a dollar an acre, while his neighbor received more than $100 an acre and a small percentage royalty on each ton of coal taken from beneath his surface. The operations of the land buyers inevitably stirred up jealousies and divisions within families and among old friends and neighbors, some of whom wanted to sell out while others hoped for a united show of resistance against purchasers. At Sarpy Creek, at Otter, and elsewhere, distrust and defensiveness soured relationships that had existed happily for decades.

A division of opinion also affected those who did not have land at stake. Like the townspeople of Roundup, many citizens in all three states regard the coalfield development as an economic boon to the region and, not sharing the torment that such a point of view visits on a Montana Garberich or a John Redding, agree with the comment of Los Angeles financier Norton Simon, a development-minded director of the Burlington Northern: "For a state like Montana to have only 700,000 people is cockeyed." But others enjoy living on the northern plains precisely because of the small population and are fearful of pollution, the degradation of the environment, higher taxes, a change in lifestyle, and other unfavorable impacts that the development will have on their part of the country and their lives.

Meanwhile, the absence of hard information concerning exactly what the impacts will be, and when they will start to be felt, has become something of a scandal. Despite all the developments that have occurred, not a single meaningful impact study has yet been made of any one of them; nor will an in-depth study be available for the region as a whole, or for any one of the affected states, until Secretary Morton's resource program report is finished at the end of 1975. It has been estimated that more than 5.5 million acres of federal- and Indian-owned land have already been let out in coal permits and leases. More acreage has been let out by the states, the railroads, and private individuals. In Montana, the Northern Plains Resource Council, checking documents on file in many of the counties, estimates that at least 1.7 million acres, more than half of that state's surface covering economically strippable reserves, are already signed away. The figures in Wyoming and North Dakota are believed to be far greater. But such information, lacking the addition of anything but occasional and very brief and bare corporate announcements on how a certain quantity of coal at some particular locality is to be utilized, has only increased the sense of helplessness.

In Wyoming with strippable coal reserves of 23 billion tons in seven major coal areas, only a few of the mammoth projects that are certainly in store for the use of the resource have yet been described with any detail.

Near Rock Springs, the $300 million, 1,500-megawatt Jim Bridger powerplant is being constructed by Pacific Power & Light and Idaho Power Company, threatening an even worse degradation of Wyoming's air quality than is already caused by Pacific Power's offending 750-megawatt Dave Johnson plant at Glenrock on the North Platte River. And near Buffalo, Reynolds Metals has proposed the organization of a consortium of companies to build and operate a uranium enrichment plant requiring, according to Reynolds, "millions of kilowatts" of power. Coal for the powerplant to supply electricity to the $2.5 billion project would come from a strip-mine at the site, utilizing deposits of more than two billion tons owned by Reynolds. To provide the large amount of water that would be required, Reynolds has bought nearby Lake De Smet and has dammed Piney Creek for the diversion of its water into the lake, causing fears already among ranchers and farmers in that semiarid area of limited water. The uranium plant, the first one to be privately owned, might export some of its product to Japan; similarly, coal producers are known to be shopping for customers outside the United States. This raises the question of how valid is the exploitation of Western coal as an answer to the so-called energy crisis.

The Sierra Club, the Sheridan County Action Group, and several other Wyoming citizens' bodies, together with editor Tom Bell of the crusading High Country News in Lander, Wyoming have tried to ring the alarm bells in that state. Very much a specter to them is the North Central Power Study's suggestion that ten 10,000-megawatt plants could be built in the Gillette area. That possibility is made more real by the knowledge that the massive, 100-mile-long Wyodak beds, all in Campbell County, contain more than 62 billion tons of coal—the national high for a county—and that a single township contains 2.87 billion tons in spectacular seams averaging about 70 feet in thickness and lying within 500 feet of the surface. A number of energy companies have paid record prices—as high as $505 an acre—for the Campbell County coal, but although the Black Hills Power & Light Company has been stripping some 500,000 tons of coal annually from the area for years, only one new development has yet occurred. In May, American Metal Climax's Amax arm opened the Belle Ayr mine to strip six million tons a year from its 6,000-acre holdings. Kerr-McGee, Exxon, Atlantic Richfield, Ark Land Company, Mobil, and Cordero Mining (Sun Oil) are among the other large leaseholders in the area, all capable of opening additional strip-mines and building polluting complexes.

Moreover, the State of Wyoming generally, its governor and junior senator, and a majority of the members of the state legislature are development-oriented, welcoming the coal industrialization as a boost to the state's economy, and showing little appetite for conducting significant studies or enacting sufficiently strong reclamation and other laws that would give protection to the state but, at the same time, irritate and impede the energy companies.

In Montana, where large-scale coal mining is a new fact of life, the reverse is true, and state officials and agencies have, if anything, been ahead of many of the people in evidencing genuine concern over the uncontrolled character of the coal exploitation. On March 9, 1971, the state passed an Environmental Policy Act, which among other things, created a 13-member Environmental Quality Council, headed by George Darrow, a Billings geologist and state representative who had been one of the chief architects of the act. Fletcher E. Newby, another concerned Montanan, became executive director of the council, the functions of which include watchdogging the environmental problems in the state, recommending protective actions, and furthering state environmental impact statements. On August 2, 1972, on the recommendation of the council, the state created a Coal Task Force to watch the developing coal situation, identify problems, and recommend needed legislation or other action.

Both Montana bodies have tried to gather adequate information for laws necessary to protect the state, but cooperation from the federal level has been sorely missed. Aware of the regional character and the enormity of what was just beginning, the governor and state officers, from December 1971 on, appealed to the Environmental Protection Agency and various federal officials for a coordinated federal-state study of the total regional and state impacts of the coal development, but until the launching of the Interior Department's long-range study in 1972, they were told that reviews could only be made of impact statements on individual projects. This was ironic, in view of the fact that the regulations requiring the filing of such statements were, themselves, not being enforced.

By the fall of 1972, the every-man-for-himself development in Montana, occurring without meaningful impact statements or regulations strong enough to provide protection to the environment, was becoming alarming. A study made by Thomas J. Gill for the state environmental Quality Council, and based on data supplied by various state agencies, pointed out that total strip-mined coal production in Montana would jump from 1.5 million tons in 1971 to 16 million tons in 1973 and to 75 to 80 million tons in 1980. At the 16 million-ton level in 1973, 275 to 520 acres of Montana land would be disturbed by the mines. Four strip-mines were already in operation in the state: At Colstrip, the Rosebud Mine of Western Energy, owned by Montana Power, was producing 5.5 million tons a year and in five years would raise the figure to 11.5 to 13 million tons, distributing 240 to 350 acres annually.

Also at Colstrip, Peabody Coal Company's Big Sky Mine was producing two million tons a year and would double the production in five years, disturbing 100 acres a year. In addition, Peabody was writing a mining plan for a new mine at Colstrip on 4,306.5 acres leased on April 1, 1971, without a preliminary environmental impact statement, from the Bureau of Land Management. At Decker, Montana, where Decker Coal Company, owned by Peter Kiewit and Pacific Power & Light, possessed one billion tons of strippable coal, the company had startled long-time ranchers in the area by disrupting a large part of the peaceful countryside within a matter of months, building a 16.5-mile-long railroad spur line, rerouting the main road, and beginning operations on a huge strip-mine committed to ship four million tons of coal annually to the Midwest. The fourth mine, a smaller one operated by Knife River Coal Company, produced about 320,000 tons a year and disturbed twenty acres annually. The state also expected the big Westmoreland mine at Sarpy, the Consol mine in the Bull Mountains, and another Peabody mine on the Northern Cheyenne Indian Reservation to begin operations within a couple of years.

Reclamation of the mined land was only one of the problems posed by the increased stripping in the state. Neither federal nor state regulations written into the leases carried any guarantees that the lands would be successfully restored, and railroad, private, and Indian leases were so deficient that they almost guaranteed that there would be no reclamation. For anyone concerned about the preservation of the land, Montana Governor Thomas L. Judge pointed out to Congress early in 1973, "the lease agreements make sinister reading." One contract, for instance, gave a company the "right to use and/or destroy so much of said lands as may be reasonably necessary in carrying out such exploration and mining." Reclamation experiments were being carried out by Big Horn Coal Company and at Colstrip, but they were inconclusive. The best estimates were that it would take many years and successive replantings with much fertilizer and large amounts of water, and would cost upward of $500, perhaps as much as $5,000, per acre, before one could tell if reclamation had truly worked in that dry and fragile land of thin topsoil. Yet the leases carried no bonds, or ridiculously low ones, usually less than would be required to pay for the restoration of a single acre. A company could make a try at reclamation, then walk away, forfeiting the bond and leaving it to the state or someone else to struggle with reclamation problems.

In addition, there was little information available about water problems that would result from the strip-mines. Some of them would seriously disturb patterns of drainage and surface runoff; at Decker, acquifers that lie among the coal deposits would disappear. The implications for the entire region's future water supply, especially as it felt the impact of increased demand for industry, were great, but no meaningful hydrological studies existed.

The powerplant problem in Montana, Gill's study showed, was still a relatively small cloud in the sky, but already an ominous one. On a 50-50 ownership basis with Puget Sound Power & Light Company, Montana Power was constructing two 350-megawatt units of a new plant at Colstrip, and had announced two more units of 700 megawatts each, with Puget Sound owning 75 percent of them. The first units were to be completed in 1975 and 1976, and the next two in 1978 and 1979. An initial environmental impact study, based on data supplied by Montana Power, was submitted by the State Department of Health's Division of Environmental Sciences, but was deemed inadequate and deficient on many counts. Fears of ineffective emission controls; widespread pollution harmful to vegetation, trees, and livestock; degradation of the quality of the air; and disruption of the ecosystem of a large region all seemed justified to many of those who analyzed the study. A final, 400-page version was more complete, but failed to still the fears. Alarm was heightened, moreover, by the prospect that additional polluting powerplants and other industrial installations were already being planned for the same area. In its own notice of appropriation for Yellowstone River water in 1970, Montana Power had indicated it planned to run a 31-mile-long, 60-inch pipeline, capable of conveying 250 cubic feet of water a second, from the river to Colstrip. This was more water than the powerplant units would need, would divert from downstream users about one-eighth of the Yellowstone's water at low flow in an average year, and suggested a future use for something else, perhaps a coal gasification plant, at Colstrip.

Gill's study also dealt with looming problems of transmission line corridors and options for water. Much of the power generated at Colstrip would be transmitted to consumers in the Pacific Northwest, requiring corridors for new lines across central and western Montana as well as Idaho. Conflict was already breaking out with landowners over rights-of-way for a new 40-mile-long corridor in the Bitterroot Valley in the western part of the state, and it was only the forerunner of what was sure to be a mass of angry confrontations as more plants were built and more corridors were sought to carry power east and west to distant consumers.

As to water, the study noted that the state's total existing and potential supply from the rivers of the Yellowstone Basin was 1,735,00 acre-feet a year; yet energy companies (possibly planning gasification and liquefaction plants) had already received options from the Bureau of Reclamation for 871,00 to 1,004,000 acre-feet per year and had requested or indicated interest in an-

other 945,000 acre-feet per year from those streams! Where this would ultimately leave farmers, ranchers, towns, Indian tribes, and others with claims on the water was not stated, but Gill suggested that "it seems safe to assume that a supply of water sufficient to accommodate the coal developments . . . would require complete development of the area's water resources," including more dams, as well as the interbasin and interstate transportation of water via a network of aqueduct pipelines, built by the Bureau of Reclamation.

As if to underscore the pressures that were already building for water, Gill noted an intention of the HFC Oil Company of Casper, Wyoming, to construct two or more gasification plants in Dawson County, Montana; the proposed Colorado Interstate Gas plant at Sarpy, and another one near Hardin; and Consol's plan to build a complex of four of them on the Northern Cheyenne Indian Reservation in Montana. Since a three-plant complex would require 50,000 to 75,000 acre-feet a year, the total water needs, he suggested, would probably limit the number of complexes in Montana "to 12 or less," an observation that, in fact, focused on the one definitive limit (outside of the vast total coal supply) to the ultimate coalfield development of the entire region. In other words, he who gets the water can build, and after the water is all taken, there can be no more users.

The report finally mentioned problems of air pollution, the increase in population, and changes in the human environment. All were matters of pressing concern to the state, but in the absence of overall planning and controls, none of them could be discussed intelligently until plans for each project were made public. Then the impacts would have to be assessed on an individual project basis—a sure formula for the rapid deterioration of the human and natural environment.

Montana's growing distress over these problems was reflected when the state legislature convened early in 1973. Numerous regulatory bills were introduced, and by April several significant ones had become law. Coal was eliminated from the condemnation statute, and operators were prohibited from prospecting or mining until they had secured the permission of the owners of the surface rights. Both measures came too late to help all those who had already sold their surface under threat, but they took some of the pressure off the many Boyd Charters and John Reddings who were still holding out. Ahead, however, lay legal battles over the rights of coal purchasers versus those of the landowners. The companies, claiming that other state and federal statutes gave them rights, felt that they still had ways of getting the surface rights they needed. The legislature also passed a strong reclamation law that spelled out required reclamation procedures in detail; increased sharply the state tax on coal; set up a Resource Indemnity Trust Fund to rectify damage to the environment caused by the extraction of nonrenewable natural resources; established a centralized system for water rights; and created a power facility siting mechanism, giving the state's Department and Board of Natural Resources and Conservation authority to approve the location of generation and conversion plants, transmission lines, rail spurs, and associated installations.

Still missing, at that late date, was convincing evidence of concern or commitment on the part of agencies of the federal government. A major portion of the coal lands in the northern plains is public domain, administered by the Bureau of Land Management of the Department of the Interior. Every aspect of the bureau's practices in the granting of federal coal permits and leases has been severely criticized in Congress and by the General Accounting Office In March 1972, GAO focused on the question of whether the United States was receiving a fair price for its coal, and concluded that it probably was not.

In the past, the lack of competition for Western coal had permitted the securing of permits and leases for bonuses and royalties so low as to constitute a virtual steal in present-day terms. But the agreements ran for twenty years before they could be adjusted, and many of them still have long periods to run before the royalty can be raised. So the "steals" on those leases continue. Moreover, even the prices paid to the government today can be questioned. Permits and leases are awarded to applicants who pay the highest bonus in competitive bidding. But the royalty rate which the applicant must pay the government for each ton of coal produced is recommended to the Bureau of Land Management by the U.S. Geological Survey and is set as a fixed term or percentage for a specified number of years. Of late, the figures have usually been 17.5 cents for subbituminous coal and 15.5 cents for lignite—considered by many critics to be too low, in view of actual market conditions. In non-BLM deals, for example, producers have revealed with uninhibited realism the extent of their ravenous appetite for coal lands by offering higher royalties and letting speculators who assign them their rights tack on increased tonnage royalties for themselves. Moreover, companies who have leased the coal are now asking the federal government to do research that will establish the value of the coal—something which, if done before the leasing, might have gotten the government a higher price for it.

The General Accounting Office was even more critical on other points. Speculators could buy rights cheaply, hold onto them for long periods of time with no plans to mine the coal, then sell the rights at a large profit in the rising market. Reclamation and environmental requirements were almost nonexistent in older leases, and the Bureau of Land Management was ignoring this deficiency, waiting for each lease to come up for renegotiation on the twentieth year after the lease had been made. Newer lease had stiffer requirements, but they were not being enforced. In August 1972 a second GAO report spelled out its criticisms on this score more sternly, aiming its charges also at the Bureau of Indian Affairs, which was administering the leases of coal owned by Indian tribes. Technical examinations of environmental effects were not being conducted by either agency; coal operators were permitted to proceed with exploration and mining without approved plans; compliance and performance bonds covering the requirements, including reclamation, were not being obtained—or, if in some cases they were, the amounts were insufficient to cover estimated reclamation costs; required reports were not being received from operators; and procedures did not exist for the preparation of environmental impact statements, so they were not being made.

The criticisms pinpointed numerous violations of federal laws and the code of federal regulations by both the Bureaus of Land Management and Indian Affairs. The Department of the Interior made no meaningful response, and in October and November 1972, both Russell E. Train, chairman of the Council on Environmental Quality, and William D. Ruckelshaus, then administrator of the Environmental Protection Agency, urged the department to undertake remedial actions. Train particularly recommended an environmental impact statement on the overall coal leasing program. Except for directives to the field for a minor tightening up of enforcement procedures, silence in Washington continued, presumably because of a desire not to do anything until the President's national energy policy could be prepared and made public or the Northern Great Plains Resource Program study could issue a report.

Meanwhile, Secretary of the Interior Morton refused to uphold a resolution passed by the U.S. Senate on October 12, 1972, calling for a moratorium on further coal leasing of federal lands in Montana for one year or until the Senate could act on strip-mining legislation. Senators Mike Mansfield and Lee Metcalf of Montana and Frank E. Moss of Utah wrote angrily to Morton, terming his decision "arrogance of the executive branch" and "unconscionable," and criticizing his statement that the Senate could rely on the regulations of the Interior Department to guarantee "environmentally acceptable mining."

Actually, after April 1971, the Bureau of Land Management had held up the approval of all federal coal permits and leases in the northern plains until it could assess how much coal was already under lease and ascertain the demand and need for additional coal. It was conducting a study of the coal-rich Birney-Decker area in the Tongue River Basin of southeastern Montana, where many applicants hoped to secure rights to deposits of some 11 billion tons, and it used the study as one of the excuses for the unofficial moratorium. But the study was released (angering the coal companies by proposing the mining of only a limited strip, two townships wide, just north of the Montana-Wyoming border—"leaving out the best coal and including only the poorest area," according to one operator), and still no new BLM leases were approved. But now, according to Secretary Morton, the department would proceed "cautiously on a case-by-case basis," suggesting to the companies that even the desired part of the Birney-Decker region would soon be opened to them.

In a Senate speech on January 12, 1973, Mansfield called attention to what the energy crisis was doing to his state, complaining that the individual landowner was being treated "shabbily," attacking the utilities and coal companies for "approaching this situation with little compassion and regard for the future of this part of our nation," and asserting that "if we cannot have orderly and reasonable development of the vast coal resources in Montana and the West, there should be no strip-mining of coal."

Meanwhile, if the federal government was not protecting the non-Indian people of the region, it was actually selling out the Indians. The GAO criticisms of the Bureau of Indian Affairs merely scratched the surface of the derelictions of government trust obligations to the tribes. Indian lands in Montana contain approximately one-third of the state's total 30 billion tons of strippable coal reserves. Some of it is owned by the Fort Peck Indian Reservation in northeastern Montana, but the largest and most valuable deposits underlie the entire Crow and Northern Cheyenne reservations in the southeastern part of the state, roughly in the heart of the prized Colstrip-Gillette area. Beginning in 1966, the Bureau of Indian Affairs—which as legal protector of Indian resources must approve all tribal permits and leases—brought coal companies to the Northern Cheyenne tribal council, encouraging that body ultimately to sign a total of eleven exploratory permits for the tribe's land. Uninformed of the ramifications of strip-mining and of the omissions and deficiencies of Bureau of Indian Affairs coal leases (whose terms and regulations adhered pretty closely to those of the Bureau of Land Management), the tribal council put its trust in the BIA, one of whose officials was quoted as saying as late as 1972, "There are indications coal will be a salable product for only a few years." Encouraged to take money while the taking seemed good (bonuses, rentals with a floor of one dollar an acre, and royalties of 17.5 cents a ton), the tribe let out to Peabody, Amax, Consol, Norsworthy & Reger, and Bruce Ennis a total of 243,808 acres—a startling 56 percent of the reservation's entire acreage!

The permits were loosely worded as to reclamation and other environmental considerations; and, like BLM and most other permits, gave the operators the right to exercise lease options which were appended as part of the original agreements and which set forth the monetary and other terms of the leases. Thus, a permit holder could explore for the coal, discover its value, then secure it without the seller being able to negotiate for the really true value of the coal. The leases, in turn, gave the purchaser the right to use the Indian land for all manner of buildings and installations necessary for the production, processing, and transportation of the coal, opening the way for the construction of power, conversion, and petrochemical plants, railroad lines, associated industrial complexes, and new towns of non-Indians, whose numbers would submerge the approximately 2,500 Northern Cheyennes and turn the reservation quickly into an industrialized white man's domain.

Most members of the tribe were uninformed about the terms of the leases, but when Peabody and Amax exploration crews appeared, drilling among the Indian burial grounds and disrupting the Indians' lives, friction and unrest developed rapidly. Fearful for the future of the reservation, their culture, and the tribe itself, a number of Indians, mostly those who held allotments of their own land on the reservation, formed the Northern Cheyenne Landowners' Association to oppose the coal development. At almost the same time, Consol entered negotiations with the tribal council for another 70,000 acres of the tribe's land (which would have brought the total acreage held by permittees to 72 percent of the reservation). Consol's proposal, which was not made public to the tribal members, offered $35 an acre and a royalty of 25 cents a ton (7.5 cents above what the federal government was getting for BLM coal and what the Indians had received in all previous leases).

To the startled Indians, Consol explained that it intended to invest approximately $1.2 billion in an industrial complex that would include four coal gasification units and that implied a city of perhaps 30,000 non-Indian people on the small reservation. The company was in a rush to get the permit signed. It urged the Indians to forgo the usual practice of asking for competitive bids (it would mean "the loss of several months' " income to them), and it offered the tribe $1.5 million toward the cost of a new health center (needed badly by the Indians, but also by the non-Indian industry, whose white employes would, according to a clause in the proposed agreement, have access to the facility—inevitably becoming the center's major users). It also tried to pressure the Indians with a threat: "If Consol cannot conclude negotiations with the Northern Cheyenne tribe at an early date, Consol will be forced to take this project elsewhere . . . this project will be lost to the Northern Cheyenne, and it may be a long time before a project of this magnitude comes again, if ever."

But the company, which had prospective customers of its own for the coal, needed the deal more than the Indians did. Word of the proposal leaked out to the Northern Cheyenne Landowners' Association, and public meetings were held, cautioning the tribal council to go slowly. The higher price offered by Consol for the coal started some new thinking. Gradually, the tribal council could recognize problems with all the permits. The exercise by Peabody of its options to lease raised the question of whether the coal company should have had to negotiate anew, treating the leases as separate documents and letting the tribe ask for a fairer price for the coal.

The company's activities also were causing many resentments among the Indians; the terms of the Peabody lease were now seen to be too loose for the protection of the reservation; the enforcement of strip-mining procedures in the code of federal regulations was not being observed by the Bureau of Indian Affairs; and the possibility that corporations would erect gasification plants and other installations on Peabody's leased land posed a fearful threat to the Indians' future. The same questions were raised about Amax's permit, while in connection with a third permit, given to Bruce Ennis, the Billings lawyer, and then assigned by him to Chevron, the Indians wondered if this had been speculation with their property and if Ennis had received a royalty from Chevron on top of their own 17.5 cents—which would have been illegal.

After more public meetings and deliberations, the Northern Cheyennes called in an attorney of the Native American Rights Fund in Boulder, Colorado, for advice and to write an environmental code that would protect the reservation. Other attorneys were consulted, and on March 5th, postponing further consideration of the Consol proposal, with its threat of gasification plants, the Northern Cheyennes demanded that the Bureau of Indian Affairs declare null and void all their existing coal permits and leases. At the same time, the tribe implied that if the agency refused to undertake such action, the Northern Cheyennes would consider suing the federal government for not having protected the tribe and its resources, either in the drawing up and approving of the agreements or in the observance of provisions in the code of federal regulations. The tribal council indicated, moreover, that the Indians might prefer to mine and market their own coal themselves, drawing on independent expertise and, with the advice of competent environmental scientists, protecting the reservation with proper planning, regulations, and controls.

While the tribe's demand was being pondered by solicitors of the Interior Department, the coal companies' plans went forward. On March 21st, Peabody announced it would supply 500 million tons of coal from its Northern Cheyenne strip-mine to the Northern Natural Gas Company of Omaha and the Cities Service Gas Company of Oklahoma City, which jointly would build four gasification plants, at a cost of $1.4 billion, presumably in the vicinity of the mine. Each plant would employ up to 600 people (meaning an influx of many more non-Indians), and construction of the first plant would start in 1976. Peabody's coal, moreover, would only fuel two of the giant plants; the gas companies would need another 500 million tons from a second mine, which the Indians guessed would be opened by one of the other permit-holders.

Somewhat similar events were transpiring, meanwhile, on the Crow Indian Reservation, which abuts that of the Northern Cheyennes. The Crows had let out permits for 292,680 acres, including rights to the coal in the off-reservation Sarpy area, whose surface the Crows no longer owned. Some of the rights to that coal had been bought from them for 17.5 cents a ton by Norsworthy & Reger, who had then assigned the rights to Westmoreland. In view of the situation on the Northern Cheyenne Reservation, the Crows began to question the 17.5 cents-a-ton price they had received, as well as a 5 cents-a-ton overriding royalty that Westmoreland had paid Norsworthy & Reger, making it clear that Westmoreland had actually been willing to pay at least 22.5 cents for the coal.

In addition, when making the original deal, Norsworthy & Reger had persuaded the Crows that they could not sell their coal unless they also handed over rights to 30,000 acre-feet of water a year (which would be needed for gasification plants). Unknowledgeably, the Crows obliged, transferring one of their water options from agricultural to industrial use and turning it over to Norsworthy & Reger. Altogether, in fact, the Crows gave away to the different coal companies valuable options for 140,000 acre-feet of water per year without a penny of payment. Testimony by James Reger to the Montana Water Resources Board in Helena on May 20, 1971, relating how he had maneuvered the water from the Crows, angered the Indians when, almost two years later, it came to their attention. Again, the tribe felt that the Bureau of Indian Affairs had not offered protection, and now, as with the Northern Cheyennes, violations were noted in all the permits, and fears were raised for the people's future. Early in 1973, lease options were exercised by Gulf and Shell for reservation lands. A report was circulated that a non-Indian city of up to 200,000 people was being considered for the neighborhood of Wyola or Lodge Grass on the reservation. Sentiment for canceling all the tribe's leaves spread rapidly, and the tribal chairman, meeting with attorneys and Montana environmental experts, indicated that the Crows might take actions paralleling those of the Northern Cheyennes.

The resentments of the two tribes could seriously threaten some of the major projects being planned for the heart of one of the principal coalfields. As such, they would prove a significant impediment to the federal government's encouragement of the full-scale exploitation of the Western coal. But there is a greater threat inherent in the indictment that Indians, once again, were defrauded by their trustee, the Bureau of Indian Affairs, which, abetting the coal companies, opened the reservations to an exploitation marked by unfair terms, lack of protection, and deceit. Throughout the country, other Indians are coming to recognize that the massive nature of the coal developments means the end of the Crow and Northern Cheyenne reservations as they have been, and, with it, the almost certain extinction of those peoples as tribal groups. As a result, the situation has a growing significance to all Indians and bids fair to become another source of explosive confrontation between Native Americans and the federal government.

The lack of impact statements, the nonobservance of regulations, and the many violations of laws that have characterized the first years of the coal rush throughout the region have provided concerned environmentalists with opportunities for numerous law-suits. The Natural Resources Defense Council, the Environmental Defense Fund, the Sierra Club, and other organizations, consulting with attorneys, scientists, landowners, and environmental advocates like William L. Bryan jr. in the region, are currently preparing a number of cases which may attack some of the worst evils, bring about tighter controls and a modicum of order, and slow the headlong exploitation. In addition, an independent committee of twelve prominent natural scientists headed by Dr. Thadis W. Box, dean of the College of Natural Resources at Utah State University in Logan, was formed in April under the auspices of the National Academy of Sciences and the National Academy of Engineering. The committee was to review the ecological and environmental consequences of the coal and power operations, and its report is expected in July. Meanwhile, each week new projects are announced, the hurried pattern of development grows more chaotic, and the threat to the northern plains increases.

In Wyoming, Tipperary Resources, holder of one billion tons of coal, announces it will built a 1,200-megawatt powerplant near Buffalo, using water from 58 wells in the dry country; a new Atlantic Richfield strip-mine will ship 10,000 tons of coal a day to Oklahoma; Wyodak Resources Development Corporation will build a 200 to 300-megawatt plant near Gillette, using 1 to 1.5 million tons of strip-mined coal a year; and the total Wyoming coal production will jump from 10.9 million tons in 1972 to 30 million tons in 1976. In Montana, Basin Electric Power

Cooperative will build a generating plant to send power to eight states; coal will be shipped to two 600-megawatt plants that will be built in Oregon; a new Montana Power transmission line is planned to run from Anaconda to Hamilton, another from Billings to Great Falls, small parts of an eventual great new network.

In North Dakota, more than two million acres of land are believed already leased for strip-mines; companies holding rights to a billion tons of coal in Hettinger County will build four large-scale powerplants; the Michigan Wisconsin Pipe Line Company, arranging for the purchase of 1.5 billion tons of strip-mined lignite from the North American Coal Corporation, asks for 375,000 acre-feet of water per year from Garrison Reservoir on the Missouri River, enough for no less than 22 gasification plants; still another company wants water for eight more gasification plants. And so it goes.

The horrors conjured up by the North Central Power Study in 1971 are coming true even faster than that document proposed—and without the focus for planning and control which its blueprint provided. Is it, then, all over for the northern plains? Will they inevitably become another Appalachia? On the Tongue River near Birney, Montana, where strip-mines, powerplants, gasification plants, and other industrial installations threaten the land, air, water, and quality of life of the Irving Alderson Jr. family, fifth-generation owners of the Bones Brothers Ranch, Mrs. Alderson gives voice to a desperate, last-ditch courage that says there is still time to save the region.

"To those of you who would exploit us, do not underestimate the people of this area. Do not make the mistake of lumping us and the land all together as 'overburden' and dispense with us as nuisances. Land is historically the central issue in any war. We are the descendants, spiritually, if not actually, of those who fought for this land once, and we are prepared to do it again. We intend to win."

BOX CANYON: A NATIONAL TREASURE

Mr. McCLURE. Mr. President, on July 26, I introduced S. 2269, a bill to designate Box Canyon Creek, Idaho, as a component of the national wild and scenic rivers system. The bill is intended to head off further commercial development of Box Canyon and to save one of the last of South Idaho's fabled Thousand Springs in its natural state.

This particular canyon is the only one of its kind in the United States. It is a majestic, deep, true box canyon with sheer basalt walls. Dr. Howard A. Powers, a retired official of the U.S. Geological Survey, described it in this way:

Box Canyon is one of the best examples of the geological features that tell the story of the great flood from Lake Bonneville that shaped the Snake River Valley. It is one of the geological wonders of North America.

Box Canyon is a "self-sustaining" ecosystem. The majority of the life there completes its life cycle entirely within the confines of the canyon. The most noticeable type of wildlife found in Box Canyon is the various species of birds that use the canyon walls as nesting sites, including the Golden Eagle. Until about 3 months ago when development was started on the lower end, the canyon was in a near pristine condition.

Down through the canyon meanders the Box Canyon Creek, which is fed by the Box Canyon Spring at the head of the canyon and flows into the Snake River at the mouth of the canyon. It is this creek which I seek to preserve by its inclusion in the wild and scenic rivers system. Box Canyon Spring is said to be the 11th largest spring in the United States. The main spring emerges at the floor of a cliff at the head of the alcove canyon and numerous other springs enter the creek along the canyon's entire length.

It is a part of the outlet of the Snake River aquifer known locally as "Thousand Springs." Approximately 15 percent of the discharges from the Snake River aquifer flow from Box Canyon. Most of the other large springs in the area have been developed.

And it is this same kind of development that is presently threatening Box Canyon. The quality of the water in Box Canyon Creek is excellent and highly desirable for fish production. The creek itself supports a good population of native rainbow trout. With these perfect conditions, it was only a matter of time before someone would seek to use those waters for commercial fish production. And that time is now upon us. Development has started on the lower end of the canyon for the establishment of a trout farm, and a diversion dam has been constructed half way down the creek to divert the water to that development. With the construction of the water diversion facilities, the "primitive" values of the lower portion of the canyon are now substantially gone and cannot easily be restored. I think it is therefore incumbent upon us to do whatever we can to preserve the natural qualities of the upper portion of this unique canyon.

Box Canyon has been a center of public controversy for the past 4 years. Although most of the surrounding land is privately owned, there is some Bureau of Land Management land near the mouth of the canyon, and most development plans would require a right-of-way over that public land. Ever since the first right-of-way application was filed with the Bureau, there have been innumerable meetings, field tours and discussions concerning the fate of the canyon. The area is currently under study by the National Park Service to determine its suitability for a National Monument, and at my urging, there has been discussion of a new concept of a national cultural park.

Such groups as the Idaho Environmental Council, Magic Valley Recreation Council, Greater Sawtooth Preservation Council, and the Idaho Wildlife Federation have urged that Box Canyon Spring be retained in its natural state. This bill that I have introduced offers a solution to the problems of saving the spring that is simple, inexpensive, quick and permanent, and with the least possible controversy. Specifically, the measure would place the upper Box Canyon Creek in a "wild river" status—guaranteeing that it would remain in a totally natural state. The lower end, which empties into the Snake River, would become a "recreational river," accessible by road and open to the public. The dividing line would be the diversion dam.

Of course, the bill will in no way interfere with the studies that the National Park Service is conducting. If at some later time that agency comes forth with a national monument or cultural park recommendation, it would not be incompatible with the wild and scenic river designation. The important thing that this bill does is to preserve the river in its present state, acknowledging the present development but prohibiting any additional development. In this manner, the area is protected until and if a more extensive management plan is adopted. I sincerely hope that action on the bill will be speedy so that its implementation can be started immediately in order to prohibit additional development in this highly unique area.

THE NEED FOR A COMPREHENSIVE RURAL HOUSING DELIVERY SYSTEM

Mr. McGOVERN. Mr. President, recently my valued friend and colleague from South Dakota, Senator JAMES ABOUREZK, joined with me in a joint presentation to the Senate Housing Subcommittee on the need to create a comprehensive rural housing delivery system.

As you know, we have outlined the concepts of what such a delivery system might be in our Emergency Rural Housing Act, which was introduced last week by Senator ABOUREZK and myself with 21 cosponsors from the Senate.

We believe that creation of such a comprehensive delivery system is an important task which can be accomplished this year as the Senate undertakes a thorough overhaul of our basic Federal housing programs.

Mr. President, I ask unanimous consent to have printed in the RECORD Senator ABOUREZK's perceptive statement on the subject and also the statement by Dr. George Rucker, of the Rural Housing Alliance, another witness who appeared before the subcommittee last week and who spoke directly to the subject.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

RURAL AMERICA NEEDS A HOUSING DELIVERY SYSTEM

(Statement by Senator JAMES ABOUREZK)

Mr. Chairman, if we are truly intent upon providing a decent home in a suitable living environment for every Amercan family, then the time has passed when the needs of rural America can be put on the back burner.

It would be unreasonable to expect a national policy to succeed if the needs of a third of the population were overlooked during the design of that policy. But, too often in the design of our major social legislation, that is what happens. Rural America gets overlooked.

The statistics tell the story: rural America has a third of the population, 60% of the housing need, median family income which is 77% of that in metropolitan areas, 44% of the nation's poverty families and has received possibly only a fourth of total Federal housing resources.

Across the board, from housing to health care to education and transportation, from the location of Federal facilities to the distribution of employment opportunities, rural America has been getting the short end of the stick.

Rural American is poorer and older. It has fewer doctors, less indoor plumbing, higher infant mortality rates, a more severe

nutrition problem and triple the incidence of substandard housing when compared to urban America. Nearly every social index shows rural America trailing behind the cities.

These facts seem to be understood, and likewise it seems to be understood that all of America is paying the human and social cost of rural America's step-sister status, yet somehow these understandings are rarely translated into Federal policy. Housing is a perfect example.

On the one hand you have the Department of Housing and Urban Development, which is overwhelmingly urban-oriented but which has somehow managed to put 21% of its assisted units in rural America.

On the other hand you have the Farmers Home Administration, which has responsibility for a dozen other diverse programs in addition to housing, which is limited to places of less than 10,000 population and which has never had the full range of tools available to the cities through HUD.

To put it bluntly, the cities have a single agency which is responsible for seeing that the promise of a decent home for every family is attended to, but in rural areas the policy is fragmented, the agency which one might suppose to be in charge has many other things on its agenda as well and labors under debilitating administrative and statutory limitations.

To be even more blunt about it, urban America has a very sophisticated housing delivery system. Rural America does not.

Rural America lacks an adequate supply of mortgage credit. It lacks the institutional setup to deliver that credit. It lacks local financial institutions willing or able to deliver assisted housing credit on the scale necessary; we are limited not only by the lack of those institutions, but by their conservative lending policies and their geographic distribution. If you take the sum total of rural America's housing delivery system, including its enlightened private institutions, its nonprofits, its housing authorities, and what state and local efforts there are, you still come up with an incredible gap.

When you take into consideration the additional factor that there are nearly one million inadequately-housed rural American families with an estimated average rent-paying capacity of $14 a month, the gap becomes even more incredible.

Federal housing policy has not taken these gaps into account. Now that we are undertaking to overhaul two decades of housing programs, I respectfully submit that the time has come to do something about it.

Rural America needs a comprehensive housing delivery system. It's as simple as that. We do not have one now, and we will not be able to fulfill the 1949 promise until we do have one.

On Monday, July 16, Senator McGovern and I introduced the Emergency Rural Housing Act of 1973 with Senators Gale McGee, Ted Moss, Dick Clark, Jennings Randolph, Edward Kennedy, Mark Hatfield, Hubert Humphrey, Lee Metcalf, Ernest Hollings, Dan Inouye, William Hathaway, Mike Mansfield, Marlowe Cook, Harold Hughes, Phil Hart, Quentin Burdick, Birch Bayh, Frank Church, Ed Muskie, and John Tunney as co-sponsors.

It is similar to S. 361, which we introduced earlier this year and which Senator McGovern introduced last year. It is similar to the original version which I introduced last Congress in the House.

What this bill does is establish a housing delivery system for rural America, for rural areas and towns of under 25,000 population.

It borrows from the model of the REA to establish a housing delivery system in rural America. It would cause the creation of Rural Housing Associations—very similar to REA coops—at the local, area or state level—to function as housing delivery institutions with area-wide coverage responsibilities. Those associations, in turn, would have access to direct Treasury credit, subsidies and direction provided by the Emergency Rural Housing Administration.

The Rural Housing Associations at the field level would be controlled by those they serve—a principal fundamental to the success of the REA program. Very simply, people who are eligible for the program and those who served by it would elect the boards of directors which run it. It's the same concept as the REA coops, one of proven accomplishment in rural areas, one highly acceptable there, one which assures a high degree of local control and citizen participation.

The Associations would have great flexibility to work with any and all existing institutions—including Farmers Home, including HUD, including existing non-profit and local housing authorities.

The Associations would simply agree to serve families in need who would not be served by the existing institutions. This, too, is a basic REA concept—areawide coverage. The associations, in effect, would have a residual responsibility to fill our present gaps, by using a full range of tools and broad flexibility.

HUD has already spent over $100,000 on a project which indicates the workability of this kind of delivery system concept in rural America. Two years ago, it made a research grant to Basin Electric Power Cooperative in Bismarck, North Dakota, to see if that cooperative which generates and wheels electric power to more than 100 member rural electric cooperatives in the upper midwest, could function in the kind of catalytic role we invision in this legislation. The results are a phenomenal success. Working through the local REA coops, and laboring under all of the present shortcomings and constraints in present housing programs that one project, with only two full-time people, has been able to bring more than 2,500 new housing units into being.

I ask permission to insert the final report of that demonstration project in the record of proceedings of this Committee. If you read the report, you will learn that the kind of delivery system we are talking about has been tested and I would call the results a striking success.

Basically, all they were doing in that project was spreading the word about housing, educating, and matching local organizations to what limited federal resources were available. Our legislation seeks to expand on that experience by creating this sort of delivery system all over the country, and by equipping it directly with capital and subsidy mechanisms to provide what the existing system lacks.

At the national level, the bill creates the Emergency Rural Housing Administration. We called it "emergency" because we stipulated a five-year deadline for it, and wrote borrowing authority and appropriations adequate to meet the estimated need into the act. Now, I realize that may trouble some people, but we wanted, in this legislation, to define the scope of what it would take to do the job.

It is to be an independent agency, because this is the quandary we were in: if you give it to HUD, you are up against that overwhelming, dominating urban bias, which characterizes the agency; if you give it to Farmers Home, you are in that administrative bottleneck again, and there is little likelihood that you will ever get out of it. It is a predominantly farm-oriented organization, one set in its ways, a subordinate agency of still another predominantly farm-oriented organization.

At this point I would like to quote briefly from that Basin Electric report. The report said that "HUD operations in rural areas fall basically into the category of 'unused Federal programs.'" It noted further that the Farmers Home Administration has a definite bias in favor of those "with better incomes," whereas the major problem is shelter for low-income people.

One further comment on the fact that our legislation envisions an independent agency: we have learned that the consolidation of the executive branch into fewer and fewer giant departments, while looking good on paper, does not always function in the best interests of everyone concerned. When the Executive branch centralizes, power gravitates toward the White House and accountability to the Congress diminishes. Moreover, when you have really huge departments, such as HEW, you begin to hear people telling you that no man alive can administer them effectively.

The legislation creates a Rural Housing Investment Fund capitalized by Treasury—borrowings to provide capital for rural housing—rental and homeownership—financed by the Emergency Rural Housing Administration. We put this in the bill for three reasons: the taxpayers are entitled to the savings of direct Treasury financing, as reflected in the recent GAO report about the expensiveness of the interest subsidy programs; private capital and private lending institutions are not in rural America on anything near the scale necessary.

To the extent that they are there, this agency does not seek to replace their function but rather to address itself to that part of the housing need which they cannot or will not serve. Third, to call attention to the fact that if this government kept its books on a capital budget system, these investments would appear on the books as assets. Any banker would show these housing loans on his books as an asset. Our thinking is that the taxpayers deserve the same kind of rational bookkeeping.

The design of the homeownership subsidy program embodied in the bill is modeled after one used in Scandinavian countries, which for want of a better word we call the Norwegian plan. Suppose you had a family for whom homeownership is desirable, and the cost of a modest house for them would be $12,000 but their income is too low to support a $12,000 note even at 1% interest. In that case, up to half of the principal would be secured by a first mortgage at an interest rate as low as 1%. The first mortgage would be written for forty years, and upon payment of it, the second mortgage becomes payable. In case of death or sale, the full mortgage becomes payable.

No homeowner would be required to pay more than 20% of his adjusted annual income for principal, interest, taxes and insurance, but a borrower would be given the voluntary option to pay more if he so desired. This makes sense, because many of our poorly-housed poor are already paying much more than that for inadequate housing.

The bill provides for rehabilitation grants not in excess of $3500 for homeowners who are too poor to go under the Norwegian plan, and authorizes a billion dollars in appropriations for them.

The bill puts a priority on homeownership and in effect reserves rental housing for the very poorest families, those whose incomes are so low that if they were homeowners and received even the most generous subsidies, their incomes would not pay operation and maintenance costs. The section is very simple. It says that rents shall bear a reasonable relationship to the income of eligible persons, and in no case should rent including utilities exceed 25% of income. It authorizes annual contributions contracts through the Rural Housing Associations, provides 40-year, interest-free financing for the construction of the rental units, and authorizes repayments to the government to the extent that rent collections exceed operating and maintenance costs of the projects.

In short, we have provided the agency with a wide range of flexible tools—including

homeownership, rehabilitation and rental financing.

I am not unaware of difficulties in passing legislation of this nature.

I realize that there will be strong opposition to direct Treasury financing of housing, despite the savings it represents to the taxpayers.

I realize that Congress is under pressure not to authorize new spending programs, particularly if it would appear to involve tax reform.

I realize that urging the creation of an independent agency is swimming upstream against the habits of recent decades to consolidate and to centralize power within the Executive branch.

But I would submit to you, with all due respect, that there are things in this bill which we absolutely must have and which I think we can achieve in this year's legislation.

First and foremost among them is the development of a comprehensive rural housing delivery system. We absolutely must design a delivery system which covers the gaps left open by our previous shortcomings and by the very character of rural America.

That delivery system should be equipped with a full range of tools. It should take into account the generally lower rent-paying capacity of rural America. It should take into account the disproportionate share of poverty and elderly households found in rural America. It should have tools at its disposal enabling it to serve everyone at the lower income levels. It should create a presence in rural America which is at least trying to work on the problem, and which covers every nook and cranny of rural America. It should be equipped with its own financial mechanisms, of whatever kind the Congress deems appropriate, instead of merely another "add-on" piggy-back arrangement which creates the local institutions but has to turn to a third party for its financing and subsidies. And there should be somebody in Washington, whether he's an Undersecretary of HUD, an Undersecretary of USDA, or the Administrator of an independent agency, who has comprehensive and final responsibility for rural housing. We have too many cooks in the kitchen. My first preference obviously would be a single-purpose agency dedicated solely to rural housing, but please, somewhere, let us put one man in charge of rural housing and let us equip him with a set of institutions covering every corner of rural America and with whatever money and mechanisms we finally make directly available to him.

I do not think it is impossible to write that kind of legislation, I do not think it is impossible to pass it, and I am sure it can be made to work.

There are three other concepts in this bill which I think are important. One is giving a prospective homeowner a voluntary option to pay more than 25% of his income for housing. There are a great many people living in rural shacks paying half, if not more, of their cash income for housing, and if that same amount would put them in a decent house, then there is no reason in the world not to allow them to do it.

The second is allowing a man to build a minimum house if that's all his income will support. The way it is now, there are too many shack-dwellers, and I could point to them on any reservation in South Dakota, who do have the income to support some kind of decent housing, but not enough to support an FHA-type $25,000 ranch house, who are living in open country or a small community and who would cry for joy at the chance to get a small, weather-proof, water-tight, well-heated, safe, solid home with plumbing. We should not force anyone to take such a minimum home, but it is just plain cruel to insist he must keep his family in a rotten shack until he can afford a fancy ranch house. If you make the minimum home concept a reality, you can count on people to fix them up, to enlarge upon them, as their income allows. It is happening in Puerto Rico on a dramatic scale.

The third concept I would argue for is letting a family live where they choose to live. I reject the growth center sociology. I know of too many elderly people who would prefer to live where they are, on their land, where they have spent all their lives rather than move into a growth center to achieve decent housing. In other words, they would trade their health for the right to live where they want to live. I do not think we should force them into that choice. I do not think we need to.

Mr. Chairman, there are possibly as many as three million American families in housing need who live within range of the Emergency Rural Housing Administration as we have defined it.

Perhaps one tenth of them have incomes over $10,000 a year.

About a third of them have incomes somewhere between $4000 and $10,000 a year.

Roughly 660,000 of them have incomes between $2000 and $4000 a year.

And nearly a million of those rural and small town families in housing need have incomes below $2000 a year, a group which includes a great many of our poorly-housed senior citizens.

There is no cheap way to provide housing for all of them; that is a matter of reordering our national priorities.

There is no cheap way to provide housing for all of them. We have a gross national product of over a trillion dollars, and I submit that the time has come to provide a decent home for every American family, including those in rural America.

Thank you.

STATEMENT OF GEORGE W. RUCKER

Mr. Chairman, Members of the Committee, my name is George Rucker and I am the Research Director of the Rural Housing Alliance, a private, nonprofit, research, information, and technical assistance organization dedicated to the improvement of housing conditions for low-income people in rural and small town America. We appreciate your invitation to appear and give you our views on rural housing programs.

We have provided members of the Committee with copies of the paper we submitted to Secretary Lynn earlier this year in response to his request for comments on Federal housing policies. It will provide you with our views on the subject in much greater detail than I shall attempt here today; and, if it is appropriate and you wish to make that paper a part of the hearing record, we would be pleased to see you do so.

RURAL HOUSING NEED

The 1970 Census of Housing indicated that nearly 4.3 million families were living in substandrad units—about 3.5 million of those lacked some or all of the plumbing fixtures we regard as essential in this country, and another 775,000 I have projected as occupying units which have all of the required plumbing facilities but are structurally dilapidated. Nearly 60% of those substandard occupancies—some 2.5 million households—are to be found outside of the nation's metropolitan areas, America's rural areas which contain only 30% of our population.

The Census indicated that another 2 to 4 million households are in units which are of "standard" quality but are overcrowded—depending on what definition you use for overcrowding. (The higher figure results if you consider *all* occupied units averaging more than 1 person per room as crowded; the lower figure if you apply that standard to households of less than 6 persons and a standard of more than 1.5 persons per room for households of 6 or more persons.) Nearly 30% of those crowded units are also to be found in nonmetropolitan areas.

Rural and small town America not only suffers from more than its share of inadequate housing, the fact that income levels are generally lower in such areas and that they suffer from a scarcity of credit and of other essential institutions means that it is that much more difficult for them to deal with their housing problems.

THE FEDERAL RESPONSE

Past programs of Federal housing assistance have suffered from some basic defects relative to their ability to serve rural and small town areas.

Public housing—the oldest of the direct subsidy programs and that most appropriate for serving those with the lowest incomes—has not only been quantitatively inadequate to the needs, it has been hampered by the fact that it is basically a local-initiative program, despite its Federal financing. In short, its effectiveness is subject to local will and capability, both in terms of initiating the use of the program and in terms of operating effectively under it. The urban focus of the Federal bureaucracy involved with the program has not helped. Not only did it respond to initiatives which, until recent years, were overwhelmingly urban in origin; but it has generally preferred dealing with large, urban project proposals to handling smaller ones from rural areas and small towns—probably regarding the former as a more effective use of their time and resources in terms of production levels.

Whatever the complex of reasons, the results are clear. A study we completed last year found that nearly half of the nation's counties—containing nearly one-fifth of its population—had *no* public housing program. The most recent data from HUD show that as of the end of last year, the 11 largest Housing Authorities in the country account for 30% of all the units. Almost half of all IHAs, those with less than 100 units each under Contract, account for less than 5% of all units.

Other HUD assistance programs—those tied to Federal Housing Administration insurance—run into the credit gap and the lack of institutions to make use of them when they make any effort to venture out of the metropolitan environment. Designed as they are, these programs are really harnessed to the chariots of the private sector—particularly its lenders and developers—and where those chariots aren't or don't go, the assistance doesn't go either. Again, the results are only too clear. During the thirty-month period from January 1970 through June 1972, FHA subsidy programs covered about 645 thousand units. Only 136 thousand of those—or 21%—went into nonmetropolitan areas.

Title V of the Housing Act of 1949 reflects Congressional recognition of the inability of FHA programs to operate effectively in rural areas and small towns. It authorized Farmers Home Administration to bridge the credit gap and it has certainly served to prevent the inequities in Federal Housing programs from being far worse than they are. But this agency, too, has been hampered. For one thing, it has had a tremendous increase in housing responsibilities in recent years with no concomitant increase in staff resources to handle them. The total program level for the agency (including housing) projected for Fiscal Year 1974 is almost six times the level which it handled in FY 1964; but the total personal resources which will be available next year are only half again as high as ten years ago!

Farmers Home has also been hampered by inadequate subsidy mechanisms. It has not had full comparability with its urban counterparts. It has never had a rent supplement authority, for example—though I rec-

ognize that this Committee attempted to correct that particular inequity last year and I hope you will persevere in the effort. Farmers Home Administration has not had the rehabilitation grant program that HUD had administered—though I recognize that this particular inequity is not the responsibility of the legislative committees but of the appropriations process.

The point is that, although the FmHA structure is far more suited to the needs of rural areas and small towns than the HUD structure, the program levels permitted Farmers Home have been only about one-fourth those of the HUD programs, even if you count *all* FmHA-financed housing units, and only about one-eighth of the level of HUD programs if you count only those FmHA units covered by direct interest subsidies. Moreover, the fact that Farmers Home has been almost completely limited to the interest-subsidy mechanism, which is inadequate to the needs of really low-income families, has meant that its housing assistance has been unable to keep up with rising housing costs. Between FY '68—before Congressional authorization of the interest credit program—and FY '72, the average income of a Farmers Home Administration borrower *rose* by 12%, though the size of the house he got went *down* by 9% (its cost went up by 40%). Finally, the pressure to handle substantially increased program levels with minimal increases in staff resources, is forcing FmHA to become more and more like its urban counterpart, FHA, and to depend increasingly on the private sector—a development which we believe will erode further its ability to serve those most in need wherever they may be.

We are especially concerned about efforts to enable Farmers Home to hire private appraisers, building inspectors, and loan servicers. We believe that if these duties pass from the hands of Federal employees to those in private sector, the road will be open to the kind of chicanery that nearly wrecked the Federal housing programs in many cities.

BASIC PRINCIPLES

This recital of past shortcomings indicates, it seems to us, some of the essential elements for a housing policy that is appropriate to the needs of rural and small town America.

People's rights are national

There must be a real acceptance of Federal responsibility and an end to the practice of leaving the national commitment in housing at the mercy of local will and ability, or at the mercy of the private sector's needs. In the past, all Federal programs—whether administered by HUD or by FmHA—have been essentially passive in character. What is needed, especially to do the toughest part of the job, is affirmative action. What is needed is a program that attempts to determine the need (where it is, who it is, and what portion of that need is likely to be met in the near future by existing programs and institutions) and then to move affirmatively to see that the gaps are filled and the job is done.

This is not to say that local initiative and local control should be ignored. We want to see the kind of local input that comes right from the people most concerned—those now living in bad housing. But we feel there should be a powerful Federal agency that can give support to local institutions to the extent of taking over the job should local, effective, people-oriented groups fail to materialize.

Housing people is expensive

There must be a genuine acceptance of the fact that—given the pattern of income distribution which exists in this nation, and has existed decade-upon-decade—our national housing commitment cannot be met on the cheap. Those most consistently left behind by the private market forces and by government programs are the households at the bottom of the income scale, and they are the people that it costs most to serve. That cost is substantial—there is no point in pretending that it isn't. But, it is certainly not prohibitive in an economy as potentially productive as ours.

Public financing is essential

Serving housing needs in a rural and small town environment demands the availability of credit, and private institutions can not be depended on for that availability. In addition, since the task is to serve those who require subsidy, it is far more economic and equitable to use direct Federal credit rather than paying the premium required to lure private credit where it would not otherwise go.

Subsidies required to reach the poor

Adequate subsidy beyond credit resources is also an essential element—and this is as true or truer for rural and small town areas as for the urbanized environment. A full range of subsidies makes the most sense in terms of permitting program flexibility to meet differing needs and possibilities. The greater relative stock of vacant, though substandard, housing in nonmetropolitan areas and the somewhat higher ratio of ownership there adds to the importance of program resources to upgrade and rehabilitate existing housing. But, as urban public housing has made crystal clear, capital subsidy is not enough for those at the bottom of the income ladder. The Census figures indicate that nearly half of the worst-housed have incomes of less than $3,000 a year and can't afford, out of those resources, the continuing costs of decent housing services, much less the initial acquisition cost of an adequate unit.

Effective delivery system needed

Finally, as we have tried to stress, the availability of a responsive housing delivery system is a particularly essential element in a housing policy that is to work in a rural environment. The public housing program has always reflected a recognition that the private sector can't be expected to respond to the needs of those most in need of housing assistance. In rural areas and small towns, that truism is even more to the point. Such success as Farmers Home Administration has had results in part, we believe, from its provision of an additional dimension to the real estate institutions in rural areas—from its direct participation in the delivery process, counseling families, helping them find land, housing or a builder, carrying out inspections and appraisals at no cost of the borrower, etc. But, it remains true that the agency has a basically passive stance. What is needed are more in the way of local institutions to work with whatever Federal programs are provided. Such institutions will not always create themselves—they must be encouraged and assisted and, occasionally, even established directly.

In short, no housing assistance mechanism can operate any more effectively than the institutions which must see to the availability of the housing and the provision of the assistance. A housing policy which is to be effective in rural and small town America must take cognizance of that fact.

REORDERING FEDERAL HOUSING POLICY

We are convinced that no amount of tinkering with the present housing system or programs will be truly effective in providing adequate housing to America's rural poor. To accomplish that, major reforms will have to be made in Federal housing policy—reforms which effectively challenge the prevailing mythology and misconceptions to which much Federal housing activity has been tied.

Having observed much of this activity in rural areas during recent years, we believe that what is needed is the establishment of a comprehensive national housing program which equitably serves the full range of housing needs and which does not leave the national purpose at the mercy of local will or capacity, or private initiative and interest. The present patchwork of Federal housing assistance programs for the rural poor reflects our failure to establish such a comprehensive program, and results in neglect of millions of American families, and the enrichment of a few private interests at an unnnecessarily high public cost.

PROPOSED ALTERNATIVES

The bill before this committee which would establish an Emergency Rural Housing Administration is clearly an attempt to move in the direction of a comprehensive rural housing program. In view of the fact that it contains elements directly relating to the basic principles we have outlined above, I would like to devote the remaining part of my statement to an analysis of that general approach to the problems of housing the rural poor. I hope that our comments—which grow out of our experience over the past seven years—will be of assistance to this committee as it considers this proposed legislation.

1. Establishment of a Separate Agency. The measure proposes to establish a separate and independent agency with specific responsibility and mandate for meeting the basic shelter needs of the nation's rural population, and provided with sufficient resources to deal with the credit, subsidy, and institutional gaps in rural America. It has been clear to us for sometime that such a need exists. The new structure should be dominated neither by the commercial agricultural interests of the Department of Agriculture nor by the overwhelming metropolitan/real estate/banker/builder interests of the Department of Housing and Urban Development.

By this, we do not see an agency created to compete with out duplicate the functions of the Farmers Home Administration. Over the years, I believe we have taken full cognizance of the board range of credit and institutional needs affecting nonmetropolitan areas. Clearly, the well being and reconstruction of our rural areas are dependent upon the existence of an effective rural credit agency—an agency with responsibility for meeting a broad range of rural needs, including housing, community facilities, agriculture, and community and economic development. The Farmers Home Administration should continue to serve a unique and vital role in this regard, and we would urge that that role be strengthened.

However, it is equally clear that the agency is unsuited to the immediate task of rehousing the rural poor, since it has neither the resources, mandate, nor operational structure to undertake a comprehensive rural housing program. And, as a result of factors associated with the agency's evolution, Farmers Home has exhibited neither the initiative nor the imagination in dealing with a largely low income rural housing problem. We say this out of our experience of several years in working both with the agency and with local groups attempting to get it to utilize more fully the program authorities that it has—including self-help and farm labor housing. The fact is that serving low-income people requires hard decisions by the local FmHA staff. It requires working with cases that are more difficult to process than average—requiring more in the way of clearing up credit records and checking out employment and income experience. It requires taking the risks involved in lending to those with marginal credit records. All too many FmHA Supervisors find this goes against the grain.

You don't have to take our word for this shortcoming in the FmHA housing record. A newly released study done by USDA personnel—Inadequate Housing and Poverty Status of Households notes at the outset that FmHA

"has difficulty in reaching the very poor" and that its programs "have not helped very many poor households obtain adequate housing." This study suggests those below the poverty line should not even be considered as the target of Farmers Home Administration's housing programs.

We would see the need for an independent agency with the responsibility of providing minimum adequate housing, clean water, and sanitary facilities to the worst-housed of the nation's rural areas, and directed to ascertain the need for such housing in all areas with a population of 25,000 or less, to mobilize the resources of other agencies in developing a five-year plant for meeting those needs, and to act directly to insure that those people not being served by other agencies and programs are, in fact, served.

2. Provision of Adequate Subsidies: The proposed legislation would make available a range of subsidies designed to meet the needs for family ownership, home repair, and rental programs. For home ownership, the measure authorizes an imaginative subsidy mechanism which would allow payments on up to 50 percent of the principal to be deferred while protecting the investment interests of the government. As noted earlier in this statement, existing subsidy arrangements limiting assistance to the reduction of interest charged to the borrower, do not have the capacity to reach low income families.

With regard to families without sufficient income to acquire, operate and pay taxes and insurance on their own homes, the Emergency Rural Housing Administration Act would authorize the construction, operation, and maintenance of adequate rental housing, utilizing a sliding subsidy mechanism dependent upon a family's rent paying ability. In our view, such a program is most essential in light of the large number of families currently excluded by even the subsidized housing market. In the attached analysis of the bill (Item A) which we have prepared, we estimate that at the present time there exists nearly 1 million families in rural areas with an average monthly rent paying ability of only $14. For the most part, these families would be ineligible for public housing even if it were available. Consequently, a comprehensive approach such as that advocated in the proposed legislation would seem essential if we are serious about meeting the needs of the lowest income families.

And finally, the measure authorizes the provision of grants and loans for the purpose of bringing existing housing units up to an adequate level to insure a family's health, safety, and dignity. Such a provision is extremely important, particularly in Appalachia and Southeastern areas of the United States, where large numbers of families currently own their own homes and land but which lack the most basic amenities.

We believe that a major advantage which would flow from an agency funded directly out of the Treasury would be to free the taxpayer from the burden of providing housing facilities far more expensive than is necessary. In all of the housing programs, public and private, one of the standard preconceptions which control the type and cost of housing is its ready resaleability. That is considered essential for private investors whether it is in fact so or not. But a Treasury financed agency would not have to build a minimum two bedroom, 800 to 1,000 square foot house for every old person or couple who needed housing. Under the program proposed here, large numbers of families could be housed decently and safely in rehabilitated housing which private agencies would hesitate to finance because of their location and resaleability. Modest, durable, attractive houses half the size of the standard FHA/FmHA house could be built, quite adequate to the needs of couples or small families. Properly planned these houses would be economically expandable, but the cost of future expansion in the hands of more affluent ownership would not be in a public expense.

This is not unjustifiable criticism of the private insured or uninsured lending programs. They are what they are. But there is no reason why the taxpayer should pay twice as much for satisfactory minimum shelter as the family requires.

3. Establishment of a Rural Housing Delivery System: One of the most significant and innovative features of the proposed legislation is the establishment of an effective rural housing delivery system responsive to local needs. Local rural housing associations, chartered under state law but serving as delegates of a Federal agency would serve to decentralize the basic administration and create, an important institutional structure in rural communities. Patterned after the rural electric cooperatives, they would be controlled by those they serve—those who have the most direct interest in effective implementation of the rural housing program. These local agencies would also be required to enter into area responsibility agreements, in order to assure equitable geographic and racial service, and to assure fulfillment of national policy objectives in meeting the housing needs of "every American family."

The rural electrification program was established to fill a gap left by the private sector—to offset an obvious deficiency in the market mechanism. It did so by utilizing the initiative of those most directly affected, the rural people themselves. The Federal Government provided them with the necessary resources, in the form of credit and technical supervision, and it required, as a condition, that the local organizations operate as responsibly as if they were true public bodies.

Rural housing need reflects an obvious deficiency in the market mechanism. The logic of again tapping the initiative of those most directly affected seems to us compelling. The wisdom of again combining substantial Federal resources and responsibility in a partnership with state and local bodies seems to us appealing. The approach appears to offer the possibility of a housing assistance program which can be fully responsive to local needs and desires without abandoning the national concern for decent housing to local will and capability.

We would like to remind the Congress that there was a time when it had been proved to the satisfaction of almost everybody that rural areas could not be electrified. The power companies in collaboration with the American Farm Bureau had conducted studies which purported to prove with all objectivity that farmers could not afford to pay enough to justify rural electrification. Once REA came into existence the objectivity began to appear more like mist or myth than fact. The co-ops slashed the cost of construction per mile; they slashed the cost of meter reading to zero; they brought into being relatively inexpensive transformers . . . *ad infinitum*. Once it was decided that rural areas would be electrified, the vast ingenuity of our society was brought into play, in a multitude of big and little ways. Would became could.

This leads us to another general comment, regarding the creation of an independent agency. There have been some comments indicating that an independent agency has become an undesirable thing. We submit to you if REA had been made a part of the Department of Commerce or the Department of Agriculture in its early years, the rate at which the program grew would have been tragically slowed, or the program might have died altogether, leaving marginal areas unserved to this day. In the Department of Commerce the power companies would have unlimited sway and would have crippled or destroyed the program. In the Department of Agriculture, the Extension Service would probably have had influence enough to achieve the same ends.

Rural electrification swept to a genuinely impressive achievement because (1) it was an independent agency with a single purpose; (2) it was financed out of the treasury and not mortgaged out to private money interests whose interests would have perverted the program; (3) the policies were set as a Federal responsibility; (4) the execution was local with consumer participation on an unprecedented scale. Rural electrification flowed from an assumption of Federal responsibility with local democratic control. We do not pretend the problems are identical. We do propose that the *principles* will apply.

4. Provisions for Direct Financing: Under the provisions of this bill, there would be established a central, public financing institution for rural housing and community facilities. The rural housing investment fund would be established by means of direct borrowings from the Treasury, with the funds to be used for the acquisition of land and construction of housing for all lower income people living in rural areas. Grant funds and other housing subsidies would be made from direct Congressional appropriations. On the basis of our experience, and as we have pointed out before, the Federal government can borrow money and lend it more cheaply than it can subsidize others to make credit available. But the present mythology which makes all public financing look like a "cost" rather than an investment has been utilized to block direct Federal lending. The funds to finance the construction, rehabilitation, and operation of subsidized housing should come out of the Treasury, from either tax revenues or Federal borrowings, and be applied as directly as possible.

CONCLUSION

Mr. Chairman, as is probably apparent, we believe that the introduction of the Emergency Rural Housing Administration Act and its consideration by this Subcommittee are most historic events in the evolution of the nation's rural housing policy. For too long, the basic needs of our rural people have been seriously neglected. The results of such neglect and discrimination are widespread rural poverty and human misery. However, this society has the capacity—both the resources and the knowledge—to alter the indecent housing conditions which currently exist in rural America. I hope we have the commitment.

Thank you once again for the opportunity to contribute to these hearings.

RURAL HOUSING ALLIANCE ANALYSIS OF COSTS OF THE PROPOSED EMERGENCY RURAL HOUSING ADMINISTRATION

"Estimate" is a polite word for "informed guess." The degree to which the "guess" in any given "estimate" is "informed" will vary according to how much is known in the first place and how much must be assumed in the process of making the guess. Estimating the costs of a not-yet existent Federal agency obviously involves an impressive (if not appalling) number of assumptions and those presented in this paper make no claim to great precision. On the other hand, they reflect an honest effort to arrive at approximate magnitudes of the costs involved in meeting the housing needs of the worst-housed in rural and small town America.

The beginning point for our estimates was the census data on households in units which lacked essential plumbing facilities, were

severely overcrowded (averaging more than 1½ persons per room), or both. Since the proposed ERHA would serve all rural areas and places of less than 25,000 population (both inside and outside of Standard Metropolitan Statistical Areas), we assumed that this territory includes 90% of all households outside SMSAs and 80% of all households within SMSAs but outside of their central cities.

Factors critical to the cost of serving households must include both their size and their incomes. Published data of the kind we were seeking are available by each of these characteristics separately but not by both together (i.e., we know how many of the households lacking plumbing or severely overcrowded had incomes of less than $2,000 and how many were 1-person households, but we do not know how many of those with incomes of less than $2,000 were 1-person households, or how many of the 1-person households had incomes of less than $2,000).[1] This type of cross-tabulation was projected from the published data, in accordance with the assumption that, at a given income level, the larger the household the more likely it is to be in poor housing. The totals from the census data and our projections of the components by both income level and household size are presented in Table 1. The census data indicate nearly 3 million households in the proposed ERHA territory in housing need as we have defined it. They show one-third of that need accounted for by households with income below the $2,000 mark, and nearly one-fourth of it in 1-person households. We would guess that 15%–17% of the total was accounted for by 1-person households in that lowest income category, and (at the other end of the spectrum), between one-fifth and one-fourth by households of 3 or more persons in the $7,000 and above income category.

To allow for the impact of Federal programs since the 1970 Census, we had to make similar projections on the basis of program levels in the intervening period.[2] Here, other assumptions were also necessary—estimating the distribution of assistance under the various programs between the territory to be served by ERHA and more urban areas, for example.[3] A major implicit assumption is that all of the households served by the various programs were drawn from the ranks of those included in our initial estimate of need. This is almost certainly an assumption contrary to fact. At the same time, we have no way of guessing what portion would have been; nor do we have any estimate of how many households might have improved their situation without reliance on the programs.

Data in the *Fourth Annual Report on National Housing Goals* indicate that some 1.4 million households were served by Federal housing assistance programs between the last quarter of Fiscal 1970 (the time of the census) and the end of calendar 1972. Our guess is that nearly half of this went into places of less than 25,000 population—the areas to be served by the proposed ERHA. In addition to this allowance for the impact of prior programs, we have excluded from the remaining constituency of the proposed ERHA households with income presumably sufficient to achieve adequate housing without ERHA assistance.[4] The results are presented in Table 2.

Not surprisingly, our projections indicate that prior programs have been most effective in meeting the needs of those in the $4,000,-$7,000 income range, and least effective in meeting the needs of those in the bottom income category. We estimate an existing need for ERHA assistance of more than 2 million households. More than two-thirds of that need is concentrated in households with incomes of less than $4,000 a year, and we would guess that nearly half is in 1- and 2-person households with incomes of less than $4,000.

ASSISTANCE TO UPGRADE UNITS

Based on tenure patterns reflected in the '70 Census, we estimate that 990 thousand of the households to be served are already homeowners (though of inadequate units). We arbitrarily assume that two-thirds of those are units which could be brought up to the required minimum standards. The proposed legislation authorizes grants of up to $3,500 where appropriate and if we assume that half of these current owners would require such grants, averaging $3,000 each, the total cost of the rehabilitation grant feature is projected at $990 million. The proposed legislation authorizes up to $1 billion for this authorization.

Let us (just arbitrarily) assume that one-third of those eligible for grants will also require loans to carry out the necessary rehabilitation work. Together with those not requiring grants, this would mean 440 thousand rehab loans in all, and if they averaged $5,000 in size, that would represent $2.2 billion in credit extended for upgrading of existing owner-occupied units. Assuming an average term of such rehab loans of 15 years and an average ability on the part of the borrowers to pay 3% interest on them, the annual interest subsidy costs on this part of the program would be $45.9 million a year (for 15 years).

OTHER HOMEOWNERSHIP ASSISTANCE

To estimate the number of households which might be eligible for homeownership assistance (in addition to those included above), we set certain income minimums, below which it was assumed that rental assistance was more appropriate.[5] On this basis, we projected some 508 thousand households to be served under the regular homeownership assistance proposed (including the deferred amortization of up to 50% of the loan where income requires it). Assuming further that the average acquisition cost of the housing required ranges from $12,000 for a 2-person household to $17,000 for households in the 5-or-more-persons category, this indicates a gross credit requirement of $7.7 billion to meet the needs of those households.

Based on our projected income levels and the formula proposed in the legislation for computing adjusted income, we have estimated that the *average* household being served this part of the ERHA program would have the ability to pay 2½% interest on the full amount of the loan required, assuming a 40-year term. (This includes many households that would be able to pay higher effective interest rates but also many that would require deferred amortization of part of the loan and a 1% interest rate on the remainder.) This indicated that the cost to ERHA of bridging the gap between that interest return and the cost of money to the government would approximate $197.2 million a year.[6]

RENTAL ASSISTANCE

The remaining 889 thousand households we assume will require rental housing assistance. Since these are the households at the bottom of the income ladder (too poor for homeownership), they require the deepest subsidy. In fact, we project their *average* rent-paying ability at less than $14 a month!

Assuming an average per unit acquisition cost for the required housing which ranges from $10,000 for a 1-person household to $17,000 for households of 5 or more persons, we project total capital requirements for rental housing at $11.0 billion. The annual amortization costs for that amount (at 6¼% over 50 years) would be $723.5 million and the potential rent from the households to be served reduces that by only $146.4 million, leaving $577.1 million to be made up by government subsidy. In addition, if one assumes an average of $1,200 per unit annually in operating costs (taxes, insurance, utilities, and maintenance), the 889 thousand units involved would require a total of almost $1.1 billion more annually to meet those costs.

SUMMARY OF COST ESTIMATES

In combination, these various estimates aggregate as follows:

(1) Gross capital costs for housing under the proposed ERHA are projected at $20,938 million. Most of this is expected to come back to the government eventually (either by repayment of the borrowers or when the housing involved changes hands). The low incomes of those to be served under the rental assistance program, however, indicates that something close to $4 billion in capital costs will have to be written off there.

(2) In the interim, the carrying costs which we have assumed represent the difference between amortization at the full cost of money to the government and amortization at the interest rate estimated as within the capability of the average household in each program. This difference we have projected at $820.2 million a year (including amortization of that part of the capital costs of the rental housing which we estimate will not be recoverable).

(3) Operating subsidies for rental assistance, in addition to the subsidy of full interest costs and a portion of the capital costs) are estimated as amounting to an additional $1,067 million per year.

(4) One-time rehabilitation grants totalling $990 million are contemplated.

ONE LAST CAVEAT

In the event that the repetition of such terms as "estimate", "project," and "assuming" have not sufficiently reinforced our initial comments, we repeat that what has gone before is our "best guess" based on published data and in the absence of any sophisticated econometric model and related computer calculations. It should be regarded as little more than general magnitudes subject to substantial margins of error. Any attempt at such estimates is bound to suffer from that characteristic, dependent as it must be on assumption multiplied by assumption. The best basis for determining program costs will be actual program experience. In the meantime, our "best guess" indicates that the sums contemplated by the proposed legislation are at least realistic.

FOOTNOTES

[1] The necessary cross-tabulations *can* be obtained from special runs of the Public Use Sample tapes, but the cost is in excess of $1,000 and funds were not available to secure those runs for this paper.

[2] Cross-tabulations by household size *and* income are available for public housing occupants but not for the other assistance programs.

[3] Based on the fragmentary indicators available, we estimated that 56% of public housing, 36% of rent supplement housing, and 27% each of other HUD-assisted housing went into ERHA's proposed territory. All FmHA assistance was included.

[4] Excluded were 1-person households with incomes of $4,000 and above, 2-person households with income of $7,000 and above, all 3-to-4 person households with incomes of $10,000 and above, and half of the larger households with incomes of $10,000 or more.

[5] It was assumed that 2-person households would require $2,500 or more income to qualify for homeownership assistance, 3- and 4-person households would require $3,700 or more in yearly income, and that larger households would require at least $4,000 a year incomes.

[6] Throughout this paper an average of 6¼% is assumed as the cost of money to the government.

TABLE 1.—HOUSING NEED IN ERHA TERRITORY AS OF 1970 CENSUS OF HOUSING

[In thousands of households]

Income level	Household size				
	1 person	2 persons	3 or 4 persons	5 or more persons	All households
Under $2,000	417–510	233–285	107–130	125–153	980.0
$2,000 to $3,999	144–176	203–248	121–148	126–154	660.2
$4,000 to $6,999	63–77	141–172	110–135	269–329	648.8
$7,000 to $9,999	5–7	17–21	110–134	190–233	358.6
$10,000 and over	0–1	0–3	98–120	197–241	327.7
All incomes	750.0	660.2	607.1	1,008.0	2,975.3

Source: Totals based on tables D–4 and E–4, "Metropolitan Housing Characteristics"; included were 90 percent of nonmetropolitan households and 80 percent of metropolitan households outside central cities; households in "need" being defined as those in units lacking essential plumbing facilities and those in units averaging more than 1½ persons per room. The cross-tabulations by both income and household size were projected on the assumption that, at any given income level, the larger the household the more likely it is to be in "need." In each case, a range is indicated reflecting plus-or-minus 10 percent of the projection.

TABLE 2.—ESTIMATED NEED FOR ERHA HOUSING ASSISTANCE AS OF 1973

[In thousands of households]

Income level	Household size				
	1 person	2 persons	3 or 4 persons	5 or more persons	All households
Under $2,000	382–468	219–267	96–118	121–148	910
$2,000 to $3,999	106–129	155–189	78–96	101–124	488
$4,000 to $6,999		80–89	31–37	179–218	322
$7,000 to $9,999			65–80	141–172	229
$10,000 and over				97–119	108
All incomes	542	504	301	710	2,057

Source: Estimated by subtracting from table 1 projections of households served by Federal housing assistance programs during the 4th quarter of fiscal year 1970, all of fiscal year 1971 and 1972, and the 1st half of fiscal year 1973. Total program levels taken from data in the "4th Annual Report on National Housing Goals"; distribution between places of less than 25,000 and places of 25,000 and above estimated on basis of data in "HUD Statistical Yearbook" (56 percent of public housing, 36 percent of rent supplements, and 27 percent of other HUD-assisted housing is assumed to go into ERHA areas); distribution among income levels and household sizes projected on basis of occupancy characteristics reported for programs by "HUD Statistical Yearbook" and by Farmers Home Administration.

AIR QUALITY

Mr. FANNIN. Mr. President, Gov. Jack Williams of Arizona, and a number of other officials from my State are meeting today with leaders of the Environmental Protection Agency to discuss proposed regulations to improve air quality.

The EPA has proposed regulations which are unreasonable, regressive, and quite likely unenforceable.

Governor Williams and our legislative leaders in Arizona have made a good faith effort to come up with pollution control programs that will be effective and acceptable. It is unfortunate that Federal officials with apparently no understanding or sympathy for our situation have insisted upon their own unrealistic proposals.

Mr. President, in recent weeks I have offered many articles and editorials for the RECORD to show the reaction of Arizonans to the EPA plan. Today I would like to present three more. I ask unanimous consent that these editorials, two from the Phoenix Gazette, and one from the Arizona Republic, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, July 26, 1973]

EPA AND STATES RIGHTS

When the Environmental Protection Agency opens public hearings in Phoenix on Aug. 6 to ventilate whether Arizona is meeting air standards, one question which cannot be avoided is whether the federal government is mangling constitutional rights.

Arizona has established air standards for enforcement by 1975 which EPA finds lacking. The haggling over whose standards are the best is, however, secondary.

What really is at stake in EPA's iron-listed approach to making the states heel is the violence being done to states' rights.

Article 10 of the Bill of Rights assures that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Advocates of the EPA's position might argue that those last three words—"to the people"—can be interpreted as the Congress (representatives of the people) empowering EPA to act. But the Congress did not spell out EPA's threats to limit parking lots, or force motorcycles off the roads, or establish gas rationing."

Loaders in the Arizona Legislature have made no secret of their intent to repudiate EPAs threats.

The consequence, under existing EPA philosophy, is that the state can be fined $25,000 a day if it does not enact and enforce standards demanded by EPA.

As Rep. Burton Barr accurately asks, What use is there for a state legislature any more if Washington just tells us what to do?"

Arizona is committed to a clean air program.

But we side with those leaders who are placing this constitutional question on the line, and demanding states' rights in a matter best resolved by elected representatives rather than bureaucrats with a taste for power.

[From the Phoenix Gazette, July 26, 1973]

EPA SHOULD CALL OFF HEARINGS

In view of the pending review of national clean air standards, it would be in order for the Environmental Protection Agency to suspend its efforts to impose drastic control strategies to reduce automotive air pollution in Arizona.

As a Wall Street Journal editorial reprinted on this page suggests, scientific and technical justification is woefully thin for the clean air standards the EPA is, with full bureaucratic zeal, endeavoring to establish here.

Moreover, it is questionable, to any the least, whether the costs of meeting the current standards—in terms of both their economic and social impacts—are justifiable. We believe that they are not, that the standards are unrealistically high.

Members of Congress finally are beginning to have second thoughts about the clean air standards, too.

It is to be hoped that Congress will promptly approve the $315,000 requested by the Senate Public Works Committee to finance a review of the standards by the National Academy of Sciences. In the light of the horrendous cost that would be involved in trying to achieve the current standards, that sum would be a small but a most wise investment.

The Academy is to be asked to complete its study by the end of next year, but to offer a short term evaluation by October. Thus it seems advisable for the EPA to call off the public hearings on its proposals scheduled for Aug. 6 in Phoenix and Aug. 8 in Tucson until the questions about what sound clean air standards ought to be are cleared up.

[From the Phoenix Gazette, July 19, 1973]

EPA'S CONTROLS TOO REGRESSIVE

That was a telling resolution the Maricopa County Board of Supervisors unanimously approved, urging the U.S. Environmental Protection Agency to drop its proposed measures to control auto pollution in Arizona.

One point made in the board's resolution has been too little noted in all the debate about EPA's drastic proposals, namely that such controls are "socially regressive."

Regressive is a fancy way of saying that the worse off you are, the more you are hurt. By saying that the EPA controls will be socially regressive, the supervisors are pointing out that the auto pollution regulations would tend to bear down harder the lower down on the social scale a person is.

It would be just as pertinent to note that the proposed EPA controls would be economically regressive. Indeed, there would seem to be little difference in the adverse

effects the EPA regulations would have on the private ownership and use of automobiles, whether one is talking in economic or social terms.

In adjusting life styles to the new circumstances, if by some great misfortune the EPA controls were to be put into effect, the rich might be mildly inconvenienced, the middle class would be decidedly affected, but the poor would pay heavily in curtailment of the American right of mobility and in all the benefits that flow from it.

It might be argued that all of society would benefit from the cleaner air that might result from the measure to curb auto pollution. This is a valid point, but the benefits must be balanced off with the socio-economic costs. And when this is done, the unfavorable ratio that would stem from the EPA's extreme measures becomes clearly apparent.

As the Maricopa supervisors indicate in their resolution, Arizona's plan for dealing with the auto pollution problem would strike a much better balance between costs and benefits. It proposes mandatory vehicle inspections, emission controls on vehicles and bulk-tank farms, conversion of 10,000 vehicles to liquified petroleum gas and an improved air-quality surveillance system.

There is probably bound to be some regressiveness in any transportation control plan, but the state plan keeps it to a reasonable minimum. The EPA proposals, involving pricing and rationing schemes and stringent usage restrictions, are much too regressive and deserve to be scrapped.

REPRESENTATIVE BOB BERGLAND: A STAR IS RISING

Mr. MONDALE. Mr. President, I take great pleasure in calling the Senate's attention to several recent articles praising the outstanding work of Representative BOB BERGLAND, of Minnesota. In Minnesota people have for many years been aware of BOB BERGLAND'S unusual knowledge of the problems faced by both rural and urban residents and of his skill in developing legislation which is sensitive to the needs of both.

It is, therefore, deeply gratifying for Minnesotans to find that people from other parts of the country are taking note of BOB BERGLAND'S work and they are impressed by what they see. In its analysis of floor action by the House of Representatives last week, the Congressional Quarterly did an excellent feature article on BOB BERGLAND, entitled "Ambassador from the Farms." The article points out:

When the Southern Democrats of the Agriculture Committee need to negotiate with the urban liberals of the north, they are likely to entrust the job to one man—Bob Bergland, Democrat of Minnesota.

Part of the reason is Bergland's expertise. He spent six years in the Agriculture Department in the Kennedy and Johnson Administrations before returning to his own 600-acre farm in Roseau, 20 miles from the Canadian border.

But an even more important reason for Bergland's role is his approach to politics. For his three years in Washington, Bergland has been the apostle of trade-off; he goes along with urban liberals on their legislation in exchange for their help with the farm bills that he cares about.

Last Sunday Minneapolis Tribune Correspondent David Kuhn reported the views of people with whom BOB has worked:

"He's a very hard working, intelligent congressman who wanted a farm bill," said a high ranking Republican member of the Committee who did not want a farm bill. "He carried a lot of weight . . ." said Reuben Johnson, a lobbyist for the National Farmers Union.

In an article printed in today's St. Paul Pioneer Press entitled "Representative Bob Bergland: A Star Is Rising," Washington bureau chief, Al Eisele, observed:

Adroitly maneuvering between the competing interests of urban and rural members, Bergland managed to keep alive the fragile coalition that allowed the complex farm legislation to pass after nine days of intense debate.

For any individual to have earned such widespread trust and respect would be a great achievement. That BOB BERGLAND has earned this position after having been in the Congress for 3 years is a remarkable personal triumph.

Mr. President, after reading these and other accounts of BOB BERGLAND'S accomplishments, I believe my colleagues in the Senate will want to join me and Members of the House and the press in congratulating this unusually gifted and dedicated legislator.

Mr. President, I ask unanimous consent that the full text of the following articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AMBASSADOR FROM THE FARMS

When the southern Democrats of the Agriculture Committee need to negotiate with the urban liberals of the north, they are likely to entrust the job to one man—Bob Bergland, Democrat of Minnesota.

Part of the reason is Bergland's expertise. He spent six years in the Agriculture Department in the Kennedy and Johnson administrations before returning to his own 600-acre farm in Roseau, 20 miles from the Canadian border.

But an even more important reason for Bergland's role is his approach to politics. For his three years in Washington, Bergland has been the apostle of tradeoff; he goes along with urban liberals on their legislation in exchange for their help with the farm bills that he cares about.

So it was, on July 16, that Bergland offered the amendment that took cotton out of the farm bill, placated cotton farmers and their spokesmen in the House, and kept alive the fragile coalition that allowed the entire bill to pass three days later.

Bergland himself spoke to several key Democrats from urban areas between the time he offered the amendment and the time it passed. "When I talk to the urban liberals," he said, "I don't try to explain the intricacies of the farm bill. I explain to them about sections they are particularly interested in—conservation, food for peace, or food stamps."

"Labor wants to keep the farmer-labor coalition working, because it gives us a majority of the House. And so do I."

The idea wasn't original with Bergland. "The Speaker and Agriculture Committee Chairman Poage and I talked on the floor at 1:10 on Monday afternoon," Bergland recalled, "and they asked me if I would offer an amendment to delete cotton."

"They promised that if I moved to strike the cotton section of the bill, they would do their bit to get southern members to vote no or take a powder on the Dickinson amendment." It was the Dickinson amendment (sponsored by Alabama Republican William L. Dickinson) that would put a ban on food stamps to the families of strikers. Bergland feared that if it passed, liberals would back out of the farmer-labor coalition and there would be no farm bill—no food stamps at all, no food for peace program.

As it turned out, the Dickinson amendment carried and the farm bill passed anyway. But Bergland and other farm strategists believe the final bill got the labor support it needed only because much of the farm bloc had demonstrated its willingness to help out on the food stamp problem.

REPRESENTATIVE BOB BERGLAND: A STAR IS RISING

(By Al Eisele)

WASHINGTON.—For one, a long distinguished career in public office is now almost over. For the other, it may have just begun.

Last week's announcement by Rep. John Zwach, R-Minn., that he will not run for re-election next year and thus end the longest record of continuous service of any active Minnesota politician coincided with the emergence of Rep. Robert Bergland, D-Minn., as an influential figure in the U.S. House of Representatives.

Bergland, 45-year-old farmer and former Agriculture Department official from northwestern Minnesota's sprawling 7th District, scored a major personal triumph as the House passed a controversial new farm bill.

Bergland's pivotal role in the long and often chaotic debate of the land-mark bill won him the accolade most coveted by members of Congress—the trust and respect of colleagues from both parties.

Adroitly maneuvering between the competing interests of urban and rural members, Bergland managed to keep alive the fragile coalition that allowed the complex legislation to pass after nine days of intense debate.

His efforts were heralded by such diverse figures as Rep. Philip Burton, D-Calif., one of the most liberal members of Congress, and Agriculture Committee Chairman Bob Poage of Texas, one of the most conservative.

In a rare tribute for such a junior member (he is serving his second term), the nonpartisan journal of legislative activity, "Congressional Quarterly," labeled him "ambassador from the farms."

"When the Southern Democrats of the Agriculture Committee need to negotiate with the urban liberals of the North, they are likely to entrust the job to one man—Bob Bergland, Democrat of Minnesota," CQ wrote last week.

The publication credited Bergland's expertise in farm matters—he spent six years in the Agriculture Department in the 1960s and still farms 600 acres near Rouseau—with his success in the farm bill.

"But an even more important reason for Bergland's role in his approach to politics," CQ noted. "For his three years in Washington, Bergland has been the apostle of tradeoff; he goes along with urban liberals on their legislation in exchange for their help with the farm bills that he cares about."

That amendment, which he offered on July 16, called for striking the cotton section from the bill. It passed by a 207–190 vote after the House had approved two amendments bitterly opposed by Southern cotton growers.

Bergland took the action after it became obvious that the anti-cotton amendments were jeopardizing passage of other amendments and of the bill itself because of opposition from cotton state members.

Bergland conceded that removal of the cotton section could mean a reversion to 1958 regulations under which cotton production would be encouraged but that costs to the government would be great.

The amendment was opposed by key Republicans on the Agriculture Committee—of which Bergland is a member—including Rep. Charles Teague, R-Calif., who called it

"a very, very strategic, wise move . . . . I certainly hope the members of this house will not fall for it."

However, the amendment won enough support from urban and liberal Democrats that it passed, giving cotton interests a strong bargaining position in the House-Senate conference committee since cotton spokesmen could hold out for reversion to the 1958 law which treats cotton growers favorably.

Actually, the idea to offer the amendment wasn't Bergland's but came from House Speaker Carl Albert and Poage, who asked Bergland if he'd offer the amendment.

"They promised that if I moved to strike the cotton section of the bill, they would do their bit to get Southern members to vote no or take a powder" on an amendment to ban food stamps for families of strikers, Bergland later explained.

Bergland feared that if the food stamp amendment passed, liberals would desert the rural-urban coalition needed to pass the over-all bill, and his strategy worked.

Bergland's new status in the House was officially recognized last Thursday when Speaker Albert and several dozen colleagues joined in celebrating his 45th birthday, with Bergland cutting a cake that said, "Happy Birthday, Mr. Ambassador."

But if last week was a triumphal one for an emerging star, it was tinged with sadness for the 66-year-old Zwach. First elected to the Minnesota House of Representatives in 1943. Zwach was serving his 40th year in public office when he made a decision to quit.

Zwach, who was elected to Congress in 1966 after serving 11 years as majority leader of the Minnesota Senate, cited health reasons and a desire to spend more time with his family and friends as his reasons for retiring.

MINNESOTAN MAJOR HOUSE FIGURE IN COMPLICATED FARM BILL

(By David Kuhn)

WASHINGTON, D.C.—As the farm bill plowed a crooked furrow toward passage in the House last week, the Congressman from Minnesota's 7th District was one of the major figures on the floor and behind the scenes.

On the floor, Rep. Bob Bergland, the Democrat from Roseau, could be seen huddling with Rep. Phillip Burton, the San Francisco Democrat who frequently speaks for organized labor; or with Rep. B. F. Sisk, a Democrat from the cotton country of Fresno, Calif., or with W. R. (Bob) Poage, the 73-year-old chairman of the Agriculture Committee from Waco, Texas; or with Speaker Carl Albert; or introducing strategic amendments.

Off the floor, he was arranging meetings between Poage and lobbyists for labor unions and farm organizations, or filling in a group of lobbyists on the latest strategy or trying to persuade urban liberals to vote for subsidies for farmers or asking conservative Southerners not to alienate labor.

It was an unusually large role for a second-term representative who ranks 13th out of 20 Democratic members on the Agriculture Committee, but it reflected his carefully cultivated ability to get along with both conservative and liberal Democratic colleagues.

"He tried his best to serve as a broker, shall we say, between the extreme liberal elements and the extreme conservative elements," Poage told a reporter.

"He carried a lot of weight and water," said Reuben Johnson, a lobbyist for the National Farmers Union. "Liberals from the cities tend to trust Bob, they respect his point of view and they know he's sympathetic to their problems."

"He's a very hard-working, intelligent congressman who wanted a farm bill," said a high-ranking Republican member of the committee who did not want a farm bill.

Getting new farm legislation to replace what he has called "unacceptable and disgraceful" current law has been Bergland's biggest goal in Congress.

With the farm population and its political influence steadily diminishing, he has advocated a policy of cooperating with urban lawmakers to get their help when it comes time for a farm vote.

Organized labor, the Farmers Union and National Farmers Organization have supported him, and he in turn helped muster rural support a few weeks ago for new minimum-wage legislation.

Thus, when it came time to try to push through a farm bill which he strongly supported, Bergland was in a position to talk with urban liberals as well as with the conservative Southerners who constitute much of the Agriculture Committee's Democratic membership.

Bergland described his role as that of "expediter," trying to "hold tenuous coalitions together." Both Southern Democrats and urban Democrats had "impossible demands," he said. "They're not natural allies. I guess that's an understatement."

Southerners associated with cotton growers wanted to avoid stiff limits on subsidy payments to any one grower, and many of them wanted to prohibit the issuance of food stamps to strikers. Northerners wanted it just the other way around.

Except for continuation of the food stamp program and food aid for foreign nations, many urban Democrats had little or no reason to support farm subsidies. How, they argued, could they justify that to housewives in their districts who were in an uproar over the price of food?

Some Republicans wanted no farm bill, believing with the Nixon administration that it was time to phase out subsidies. Others, especially those from farm districts, wanted a bill that was potentially less expensive than the one that passed.

As a result, during the two weeks of debate and amendments, alliances were flimsy at best.

At one point, Bergland was speaking for and voting with cotton. At another, he was speaking for and voting with labor. When strategy called for a move to delete cotton from the bill, Albert asked Bergland to do it. He agreed and explained why it was a good gamble to his labor and farm allies on and off the floor.

The climax came during eight hours of wearying debate Thursday afternoon and night. The House voted to ban food stamps to workers on strike, thereby assuring that large numbers of urban Democrats would vote against the entire farm bill.

Amidst much maneuvering, the members became a little boisterous at times, such as when Speaker Carl Albert ruled that a motion by Rep. Wilmer (Vinegar Bend) Mizell, R-N.C., was out of order.

As the burly, former major league pitcher strode threateningly toward the diminutive Albert on the speaker's platform, several members were heard shouting gleefully, "Kill the umpire."

Meanwhile, Bergland went to those members he calls "my city friends," asking them "to hold your nose" and support the bill despite the hated strikers ban, reminding them that it was the only way they could continue food stamps and foreign food aid, and telling them they would have another chance to overturn the strikers provision in the conference committee with the Senate.

At least a dozen urban liberals did vote for the bill, which passed comfortably, 226–182.

Attention now will turn to the conference committee. If its compromise between the House and Senate farm bills retains the anti-striker provision, which labor says it can't live with, or tight payments limits, which cotton says it can't live with, "there's going to be one knock-down fight again," Bergland predicted Friday.

A COURT DECISION OF GREAT SIGNIFICANCE

Mr. BROOKE. Mr. President, the battle against the impoundment of congressionally authorized and appropriated funds is being waged increasingly in the Federal courts.

The "power of the purse" is our foremost power and it is imperative that it be fully restored to us. I am encouraged by recent court decisions, which significantly limit the power of the executive branch to thwart spending decisions of the Congress.

On Friday, July 27, Judge Oliver P. Gasch, of the U.S. District Court for the District of Columbia, ordered the release of impounded funds appropriated pursuant to the authorization under title III of the National Defense Education Act. Judge Gasch's decision is in part a victory for the plaintiffs, the Commonwealth of Massachusetts and the District of Columbia; but more significantly, his ruling represents another positive step in the restoration of congressional power to set spending priorities.

I commend Judge Gasch's opinion and order to my colleagues and ask unanimous consent that the opinion and order be printed in the RECORD.

There being no objection, the opinion and order were ordered to be printed in the RECORD, as follows:

U.S. District Court for the District of Columbia

Commonwealth of Massachusetts, Plaintiff, v. Caspar W. Weinberger, et al., Defendants, Civil Action No. 1308–73.

District of Columbia, et al., Plaintiffs, v. Caspar W. Weinberger, et al., Defendants, Civil Action No. 1322–73.

OPINION

The above-titled consolidated actions came on for consideration on plaintiffs' motions for a preliminary injunction, defendant's motion to dismiss or in the alternative for summary judgment, and plaintiffs' cross-motions for summary judgment. Plaintiff in Civil Action No. 1308–73 is the Commonwealth of Massachusetts; plaintiffs in Civil Action No. 1322–73 are the District of Columbia and the members of the District of Columbia Board of Education. Defendants in both actions are Caspar W. Weinberger, Secretary of the Department of Health, Education, and Welfare; John R. Ottina, United States Commissioner of Education; and Roy L. Ash, Director of the Office of Management and Budget.

The Court, having considered the complaint, the said motions, oppositions thereto, supporting exhibits and affidavits, and argument by counsel in open Court, determines that summary judgment should be entered in favor of plaintiffs for the reasons set forth below. In granting plaintiffs' motions for summary judgment, the Court renders moot their motions for a preliminary injunction.

Plaintiffs are seeking to compel defendants to perform what they allege to be a ministerial duty under Title III–A of the National Defense Education Act of 1958, 72 Stat. 1488 as amended, 20 U.S.C. §§ 441–45 (hereinafter "the Act"). Specifically they seek relief in the nature of mandamus, declaratory judgment and an injunction to compel defendants to allot, apportion, and disburse or otherwise make available to the plaintiffs monies appropriated by Congress for fiscal year 1973 to provide matching funds for state and local education programs for minor remodeling and purchase of equipment as defined in Title III–A of the Act.

Defendants seek dismissal of the actions on the grounds that the Court lacks subject

matter jurisdiction because the actions are barred by the doctrine of sovereign immunity and because they raise political questions and hence are nonjusticiable. Alternatively, defendants contend that summary judgment should be entered in their favor on the grounds that Title III–A of the Act and the terms of P.L. 92–334, § 101(d) as amended by P.L. 92–390, P.L. 92–446, P.L. 92–571, and P.L. 93–9, which appropriate monies for fiscal year 1973, give defendants discretion to reduce funding of the programs as they have done and that, in any event, the Executive Branch may, in the exercise of powers to control overall federal spending allegedly granted by Article II of the United States Constitution and recognized by the Congress, refuse to allot and expend sums whose allotment and expenditure is expressly required by an Act of Congress.

A comparison of the Statements Pursuant to Local Rule 9(h) of Material Facts as to Which There Is No Genuine Issue reveals that there are no disputes as to any facts material to the issues which are determinative of these actions. Hence summary judgment may appropriately be entered in favor of the parties entitled thereto as a matter of law.

The Court cannot concur in defendants' allegations that it is without subject matter jurisdiction. It has federal question jurisdiction under 28 U.S.C. § 1331, see, e.g., *State High Commission of Missouri v. Volpe,* Civil Action No. 72–1512 (8th Cir., decided April 2, 1973), jurisdiction under 5 U.S.C. § 702, see, e.g., *Commonwealth of Pennsylvania v. Weinberger,* Civil Action No. 1125–73 (D.D.C. preliminary injunction granted June 28, 1973), and mandamus jurisdiction under 28 U.S.C. § 1361, see, e.g., *Minnesota v. Weinberger,* Civil Action No. 4–73 Civ. 313, 42 U.S.L.Wk. 2004 (D. Minn., preliminary injunction granted June 7, 1973). Plaintiffs properly filed a mandamus action since they allege that defendants are refusing to perform a clear, nondiscretionary legal duty owed to plaintiffs.

The sovereign immunity doctrine does not bar the actions since they are clearly distinguishable from such cases as *Dugan v. Rank,* 372 U.S. 609 (1963), and *Mine Safety Appliances Co. v. Forrestall,* 326 U.S. 371 (1945), which did not involve allotments or disbursements alleged to be specifically required by the Congress. Moreover, as this Court noted in *City of New York v. Ruckelshaus,* Civil Action No. 2466–72 (D.D.C., decided May 8, 1973), the rule in this Circuit is that the defense of sovereign immunity is waived by the Administrative Procedure Act as to suits challenging the validity of agency actions. 5 U.S.C. §§ 701–706.

Since the issue presented in these actions is not how defendants should exercise discretion granted them under the statute in question but rather whether Congress has granted them unlimited discretion as to allotments and disbursements under the Act, the issue raises no political questions so to make it nonjusticiable according to the standards set forth in *Baker v. Carr,* 369 U.S. 186, 217 (1962). The case of *Housing Authority of San Francisco v. U.S. Department of Housing and Urban Development,* 340 F. Supp. 654 (N.D. Cal. 1972), cited by defendants as authority on this point is distinguishable for the reason that the plaintiffs therein were seeking to compel expenditures which that Court found were entrusted to administrative discretion by the Congress. 340 F. Supp. at 656. It did not decline to rule on the issue whether Congress had granted such discretion.

Having determined that it has jurisdiction to consider the merits of the action, the Court proceeds to examine Title III–A of the Act. In § 442(a)(1) of the Act, Congress provides for an allotment to be apportioned among the states according to a ratio set forth in § 442(a)(2); payments of matching funds out of a state's apportioned share are to be made pursuant to § 444 to any state which has submitted a plan approved by the Commissioner of Education (hereinafter "Commissioner") as meeting standards set forth in § 443. The parties agree that the plans submitted by plaintiffs have been approved by the Commissioner. They also agree that despite the submission of approved plans, plaintiffs have received no matching funds for purchase of equipment and minor remodeling as provided for by Title III–A of the Act because defendants have allotted only two million dollars out of what is alleged to be a fifty million dollar appropriation. Defendants concede this amount to be sufficient only to maintain in place the staffs who would administer Title III–A grants if there were any grants to administer.

As the Court reads § 442, that section grants the Commissioner discretion to reserve, for purposes designated in § 442(a)(1), up to 16 percent of the total amount appropriated by Congress for a given fiscal year. However, the Commissioner is obligated to allot all of whatever remains after he has reserved whatever amounts he chooses within those limits prescribed by Congress. Indeed, the apportionment ratio for determining the shares of individual states would make no sense if the Commissioner were free to allot whatever portion of the remainder he chose, for one element of the ratio is "the amount of such remainder" (after the Commissioner has reserved the portions he is authorized to reserve). If the Commissioner allots less than the full amount of the remainder, but then apportions individual shares according to the express terms of the ratio, the sum of the shares would exceed the allotment for the whole. Further internal support for the Court's reading of § 442(a) is to be found in the reallotment provisions of § 442(c), and in § 445, concerning loans to nonprofit private schools, in which Congress used permissive language ("the Commissioner is authorized to make loans") which contrasts markedly with the mandatory language ("the Commissioner shall allot") of § 442(a).

The appropriation of funds for Title III–A programs in fiscal year 1973 was made by means of a Continuing Resolution, P.L. 92–334 § 101(d) as amended. Congress thereby appropriated for Title III–A programs "[s]uch amounts as may be necessary for continuing the . . . activities, but at a rate for operations not in excess of the current rate. . . ." The parties agree that the "current rate" is the amount appropriated in P.L. 92–48 for fiscal year 1972, namely, the sum of fifty million dollars.

The Court does not agree with defendant's contention that the language "not in excess of" alters the terms of § 442 of the Act so as to give defendants the discretion they are claiming as their right. The intent of Congress in funding programs by means of the Continuing Resolution is succinctly stated in the House Report concerning the last amendment to the Resolution, extending funding to June 30, 1973, the end of the fiscal year:

"The Continuing Resolution appropriates funds for the continuation of ongoing programs. It does not authorize the Executive Branch either to start new programs or to stop ongoing ones. The Resolution, within its terms and conditions, has the full force and effect of an appropriation act."

H.R. Rep. No. 93–20, 93rd Cong., 1st Sess. 2 (1973).[1] The Commissioner's action in alloting two million dollars so as to maintain the staffs to administer the Title III–A programs but to provide no funds for programs which the staffs could administer in no way complies either with the terms of the Continuing Resolution or the terms of the Act itself.

Finally, the Court cannot accept defendants' position that, regardless of the plainly expressed intent of Congress, the Executive Branch can withhold appropriated funds for programs established by statute simply because it desires to control overall federal spending or to give priority to other programs which it believes are more desirable. Control of federal spending is an entirely laudable objective, but there is no authority either in Article II of the Constitution or in the case law, for the defendants' position that they may achieve this by refusing to comply with the terms of a statute. Certainly the President's duty to see that the laws are faithfully executed cannot include the power defendants are claiming. As Justice Thompson, writing for the majority in *Kendall ex rel. Stokes* v. *United States,* observed: "To contend, that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible." 37 U.S. 522 (1838). For more recent authority on the question of the power of the Executive Branch to disregard statutory requirements, see, e.g., *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952); *State Highway Commission* v. *Volpe, supra.*

As to defendants' contentions that Congress conferred on them the discretion they claim to possess by its passage of the Anti-Deficiency Act, 34 Stat. 49, as amended, 64 Stat. 765, 31 U.S.C. § 665(c); the Budget and Accounting Act of 1921, 42 Stat. 20, 31 U.S.C. § 1 et seq. and the Employment Act of 1949, 60 Stat. 23, 15 U.S.C. § 1021 et seq., this Court finds nothing to support their position in the language or history of these statutes.

For all of the reasons set forth above, the Court finds that plaintiffs' motion for summary judgment should be granted.

OLIVER GASCH,
Judge.

Date: July 26, 1973.

[U.S. District Court for the District of Columbia]

ORDER

Commonwealth of Massachusetts, Plaintiff, v. Caspar W. Weinberger, et al., Defendants, Civil Action No. 1308–73.

District of Columbia, et al., Plaintiffs, v. Caspar W. Weinberger, et al., Defendants, Civil Action No. 1322–73.

These matters, which have been consolidated pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, having come before the Court on plaintiffs' motions for summary judgment, plaintiffs' motions for preliminary injunction, and defendants' motion to dismiss, or in the alternative, for summary judgment, and the Court having heard argument by counsel in open court and having considered all pleadings and briefs filed herein by the parties, and the Court having concluded that there is no dispute as to any genuine issue of material fact and that the plaintiffs, the Commonwealth of Massachusetts, the District of Columbia, and the individually named members of the District of Columbia Board of Education, are entitled to judgment as a matter of law, and for the reasons given in the Opinion of the Court filed herewith, it is by the Court this 26th day of July, 1973.

Ordered that defendants' motion to dismiss or in the alternative for summary judgment be, and it hereby is, denied; and it is further

Ordered that plaintiffs' motion for summary judgment be, and it hereby is, granted,

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[1] See also the views expressed by Congressman Mahon, a member of the House Committee on Appropriations, and Congressman Perkins, Chairman of the House Education and Labor Committee, at 119 Cong. Rec. H1016 (daily ed. Feb. 21, 1973), which evince an intent to appropriate the amount of fifty million dollars.

and that summary judgment be, and it hereby is, entered in favor of plaintiffs; and it is further

Adjudged and declared that § 442(a)(1) of the National Defense Education Act of 1958, 72 Stat. 1588 as amended, 20 U.S.C. § 441 et seq., requires the defendant Commissioner of Education to allot among the States for fiscal 1973 the amount of fifty million dollars, appropriated by Congress in § 101(d) of P.L. 92-334 as amended by P.L. 92-390, P.L. 92-446, P.L. 92-571, and P.L. 93-9, minus any amounts heretofore reserved pursuant to § 442(a)(1) for the purpose specifically designated therein and not in excess of the percentage allowances specified therein; and it is further

Ordered that the funds allotted to plaintiffs pursuant to the Order of this Court entered June 29, 1973, shall forthwith be made available for obligation and expenditure in accordance with 20 U.S.C. § 444 and shall remain available until totally expended or June 30, 1975, whichever shall first occur.

OLIVER GASCH,
Judge.

THE NEED FOR A MANDATORY FUEL ALLOCATION PROGRAM

Mr. HUMPHREY. Mr. President, during the last few months many Members of this body have spoken out on the subject of the energy crisis. Indeed, few subjects have attracted as much attention and led to as much debate, nor produced as much confusion.

But there is one aspect of the energy situation which is crystal clear—and that is the need for the immediate imposition of a mandatory fuel allocation program. While the reasons for the current petroleum shortage are open to further investigation and discussion, the impact of the shortage is not a matter we can afford to ignore. By this I mean that our Nation's security and prosperity are at stake. Action is needed immediately to insure that vital services, such as agriculture and transportation, are allocated the necessary fuels.

Daily I have been expecting the administration to announce a mandatory oil allocation program. Daily my hopes are dashed. No such announcement is made. Daily I receive letters, telegrams, and phone calls from constituents saying that if action is not taken they will go out of business, their crops will not be harvested this fall, their schools and hospitals will be closed this winter for lack of adequate fuel.

This is not a situation we can allow to continue. On June 5 the Senate, by a vote of 85–10, passed the Emergency Petroleum Allocation Act of 1973. The House has yet to act on this measure. The reason: on July 10 Deputy Treasury Secretary William Simon told the House Commerce Committee, before which companion legislation is pending, that a decision whether to go to mandatory controls would be made "within the week" by the administration. That "week" has now stretched into 20 days.

The only way I can interpret this delay is either the administration is suffering from paralysis of the decisionmaking process or it is indifferent to the seriousness of the fuel supply situation.

Distasteful as the thought of mandatory controls may seem to be, the risks of disaster to our Nation are too great not to move forward at this time with this most necessary step. The newspapers in my state are filled with articles pointing out the failure of the voluntary allocation program. Mr. President, two recent articles, one from the July 17 St. Paul Pioneer Press, and one from the July 26, Minneapolis Star, are especially worth reading. I ask unanimous consent that they be inserted at this point in the RECORD, along with a message of July 19 to Minnesota's Legislature from the State Director of Civil Defense, Mr. James Erchul.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE "CAN'T HELP SOLVE GAS CRISIS"

Aside from listening to complaints, there isn't much state government can do about the fuel shortage, Minnesota Civil Defense Director James Erchul said Monday.

"Our hands are tied at the state level," he said in an interview. "We're taking complaints, but there's no policy. We're waiting for the federal government."

Erchul said his office has been able to take some minor actions to match up fuel-short dealers and supplies but basically is in the business of forwarding complaints to Washington.

Asked to sum up the fuel situation at midsummer, Erchul said:

"The major oil companies are putting a great emphasis on the production of gasoline; independents are still unable to get anywhere near what they need and hundreds of stations are closed."

Erchul is critical of the voluntary allocation program installed by the federal government May 21.

That program asks fuel producers and suppliers to follow certain guidelines in distribution of petroleum products. One guideline calls for giving top priority to farmers and food producing industry in general.

Erchul said the forthcoming harvest season will be a major test of the federal government's voluntary approach.

"We're really going to find out if the majors will adhere to the voluntary program," he said.

Gov. Wendell Anderson and Administration Commissioner Richard Brubacher had ordered fuel-conserving practices for state employees.

The state operates more than 2,000 passenger vehicles and uses more than 2 million gallons of gasoline a year.

Brubacher has asked all drivers of nonemergency vehicles to reduce speeds to 60 miles an hour or less and take other steps to lessen state gasoline consumption.

At the same time, the Economic Development Department is urging tourists not to fear a fuel shortage in Minnesota. Lisa Lebedoff, acting director of tourism, said a survey showed 5 per cent of the service stations in Minnesota are not cutting back on sales or hours of service.

Erchul said the heating oil situation for next winter and fuel for drying fall crops remain a question mark. Much depends on the weather.

"The worst possible combination would be a wet fall and an early cold snap," he said.

Erchul said some big companies, notably Standard Oil, are beginning to stockpile heating oil.

The state Education Department has begun a survey of public school districts to learn how many have been able to contract for fuel.

FARMERS SUFFERING FROM LACK OF FUEL IN MIDWEST

(By Jim Jones)

Shortages of fuel threaten to plague Upper Midwest farmers harvesting their crops this fall.

One of the problems is an unofficial fuel allocation system under which fuel retailers, some of whom are limited to last year's volume by petroleum product companies, tend to limit their retail customers to what the customers bought last year.

Farmers, having increased their acreage this year, are having trouble getting by on last year's supply.

In a few cases, this has led to so-called "black market" operations, in which a consumer gets some "extra" fuel by paying "extra" prices.

"Last year's fuel allocations simply aren't enough, and the situation is getting serious," says Jon Wefald, Minnesota commissioner of agriculture.

An unrelenting demand for food and feedstuff production has led to the fence-to-fence production concept, Wefald said, "but now the farmer is being told that he can not exceed last year's fund allocation.

"They aren't even sure they will get the amount allocated last year."

"Given the fantastic production that is out there in the fields, mandatory fuel allotments are necessary to assure harvesting."

Wefald called for a 25-percent increase in fuel allocations to meet the needs of the coming harvest. This year, Minnesota has 6.2 million acres in corn, up 10 percent; 4.4 million acres in soybeans, 23 percent greater than any soybean crop in the state's history.

Compared to 1972 crops, he said, oats acreage is up 12 percent, barely 18 percent and flax 69 percent.

"Crops this year are valued at $2.5 billion sitting out there in those fields, and the farmer needs fuel to get them out" Wefald said.

William J. Kuhfuss, president of the American Farm Bureau Federation, a 21-million member group, said "fuel is a real concern" for members of his organization.

He said "there has been more apprehension for fuels" than there have been actual shortages and that there has been a good reserve and supply buildup by some farmers, "but the long time fuel demands will increase."

A spokesman for the Farmers Union Central Exchange (Cenex) in St. Paul, said as long as a 100-percent owned refinery in Laurel, Mont., and 30-percent owned refinery in McPherson, Kans., are working at full capacity, "we think that we will come through OK.

"The Canadians have cut us back on crude (oil) at the Montana refinery, but we will not know what the situation will be until mid-August."

The co-op stations are not taking on any new customers.

The 350,000-member farm organization has 1,000 stations in nine states.

Shortages were reported in Colorado by a spokesman for the National Farmers Union.

"And there has been a little bit of black-marketing," he said.

"We think the only way to handle this situation is by mandatory allocation, and we are favorable to breaking up the control of fuel by some of the big companies," the spokesman said.

In Colorado, the situation is blamed on transportation but, the Farmers Union says it has indications fuel will be available when prices are higher.

The spokesman for the 250,000 farm family organization said "This is a classic instance of a company failing to meet the needs of its customers, and when it occurs people must step in through the government for some kind of allocation."

"We have a couple of weeks to go on the wheat harvest and we will be going into fall cultivation and harvesting of our fall crops," he said. "And a lot of oil will soon be needed for heat so this is not just a unique period we are entering into, but long-term period for energy use."

STATE OF MINNESOTA,
CIVIL DEFENSE DIVISION,
St. Paul, Minn., July 19, 1973.

To: Minnesota Legislature.
From: F. James Erchul, Director.
Subject: Teletype Message Regarding Fuel Situation.

The following is the teletype message which we sent to the Regional Office, Office of Preparedness, General Services Administration, Chicago, Illinois, concerning the fuel situation:

"A. Estimate of fuel situation

1. Gasoline—A very confused picture is developing in the retail of petroleum products throughout the state. Some stations apparently have unlimited supplies while others are on a very strict quota. As a result purchases are either limited by dollar value or gallons. In other instances stations have had to close down either temporarily or permanently due to lack of supplies. Shorter operating hours are now general throughout the state.

2. Diesel fuel—some commercial users are still having difficulty in securing adequate supplies in quantity. Governmental entities have been unable to secure fuel contracts.

3. Aviation gasoline—the airports served by Union 76 are generally in short supply or out of product in both 80 and 100 octane gasoline. This is seriously affecting crop dusting and spraying in the agricultural areas of the state.

4. Propane—no relief has occurred in the LP gas field. Dealers in rural areas are very apprehensive about their ability to supply the needs of farmers for crop drying this fall.

B. Effects of fuel shortage on people

Unemployment continues to rise as additional stations and distributors are forced to curtail activities or close entirely.

C. State activity

1. Fourteen major suppliers have responded to Governor Anderson's request for voluntary allocation of 10% of supply for emergency use to priority areas. Only three of those responding have agreed to make any supply available.

2. Commissioner Casmey of the Department of Education has instituted a heating fuel survey of all school districts in the state to determine their contract negotiations with suppliers and adequacy of those contracts to meet heating needs for the coming season by the respective school districts. Of 450 school districts canvassed, 44 districts have responded or about 10% of the state. Six districts have an assured fuel supply, 16 have reasonable assurances of supplies, 22 have no assurance. They indicate need for 1,128,000 gallons of #2, 49,000 of LP; and no estimate on amount of natural gas required.

3. Requests for assistance continue to flow in to the State Civil Defense Division from distributors and dealers throughout the State. These requests are forwarded to the Office of Oil and Gas through the regional office of the Office of Preparedness (GSA), Chicago, Illinois, on a daily basis.

D. Industry activity

1. Midland Cooperatives Inc. report they have been allocated crude royalties which will permit increase of product from the present 50% to 75% of refinery capacity by September first or earlier.

2. Several of the major suppliers have increased their allocation to distributors and retailers to 105% of last year's consumption.

3. Two major suppliers are permitting distributors and dealers to draw on their next month's allocation to meet current needs. This apparently will be permitted through the September allocation.

4. Canadian product is no longer available in quantity except for heavy fuels by action of the Canadian government.

E. Publicity accorded fuel shortage by news media

1. Industry advertising is still following conservation theme.

2. The media continues to highlight energy articles.

3. AAA advises that the fuel situation is improving or appears to improve. This may tend to defeat the request for conservation.

F. Major problems

1. Voluntary allocation system is not working.

2. New Federal guidelines have not been published as expected.

3. Governmental units still are not obtaining fuel bids.

4. Dealers on strict allocations will be unable to meet agricultural requirements during the harvest period.

G. Comments

1. Response to requests for assistance to the office of oil and gas has not materialized.

2. The administration announced rollback of prices on petroleum products may tend to reduce available supply to distributors and retailers.

H. Recommendations

1. The Office of Oil and Gas should delegate authority to act to their regional office to shorten reaction time. No such authority presently exists.

2. Some mandatory controls must be instituted by the Federal Government with an emergency supply available to meet priority needs.

Mr. HUMPHREY. Mr. President, in my estimation these newspaper articles and the report from Mr. Erchul clearly pinpoint the seriousness of the fuel situation, especially as it relates to Minnesota. But my State is not the only one suffering from the ineffectiveness of the voluntary fuel allocation program. The situation repeats itself in many other parts of the country, and leaves the Government no choice but to begin immediately a mandatory program. For this reason I am heartened by an article in Sunday's Washington Star-News reporting that the Nixon administration may at last announce such a program this week.

I certainly hope that Roberta Hornig's report is accurate and that "this week" will not stretch into the future as past weeks have had a way of doing. We just cannot afford to wait any longer to find a solution to this critical problem. We need answers now, for each day that passes without the administration acting on this vital matter the situation worsens; each day more independent dealers and distributors of gasoline are forced out of the market; each day we are closer to full-scale harvesting and drying of the fall crops; each day we are closer to those cold winter months when fuel is a necessity for keeping schools, hospitals, and other public institutions livable, to say nothing of private homes.

Mr. President, I ask unanimous consent that the article I have referred to from the Washington Star-News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIXON TO ORDER OIL ALLOCATION
(By Roberta Hornig)

The Nixon Administration is scheduled to announce this week a mandatory oil allocation program that will require oil companies to distribute available crude oil and refined products—including gasoline, heating fuel and jet fuel—equitably to all customers.

In addition, states will be allotted a "reserve" to assure supplies to priority users ranging from farming and food processing activities to municipal services, public transportation, public utilities and telecommunications.

The mandatory program, designed principally to aid independents and areas of the nation experiencing difficulty in getting fuel supplies, is expected to be announced by President Nixon's new chief energy adviser, former Gov. John A. Love of Colorado.

It will be the first mandatory allocation program in peacetime in the nation's history. It does not involve any direct consumer rationing.

Drafts of the proposed program, scheduled to begin around Aug. 15, are currently circulating in the White House and at the Office of Management and Budget.

The program is in two parts, one applying to products destined for wholesalers and ultimately to consumers, the other covering crude oil going to refineries.

Covered are a wide range of products including gasoline, fuel oils, jet fuel, propane, butanes, naphtha and residual oils.

Exempted from allocations will be all petrochemicals, except those used in manufacturing feedstocks, lubricants, asphalt and refined solvents.

The program will be run by the Interior Department's Oil and Gas Office, which also will be authorized to investigate complaints, make adjustments, impose penalties and invoke sanctions.

If unusual weather conditions or supply disruptions lead to supply imbalances, the Office can also order transfer of supplies from one region of the country to another.

The program calls for reasonable, and fair prices for the products.

Under the crude oil allocation program, the major companies will be required to allocate, or share, domestic crude oil and imports from Canada and Mexico to "crude-deficient" small refineries in amounts necessary to get them up to 90 percent of their 1972 capacity.

Exempted from the sharing system would be imports from other areas of the world as well as any new domestic oil discoveries.

In order to qualify for oil allocations, refining companies must run at a capacity of less than 150,000 barrels a day.

The major refiners required to share their supplies are those refining products at higher levels.

If, by sharing, majors can prove that their own refinery capacity has been lowered, they can appeal to Interior's Office of Oil and Gas.

Within ten days after the effective date of program, each refiner will be required to submit a report to the government laying out its refinery capacity and how much oil will be available.

Currently, oil companies are supposed to be sharing their products, but on a voluntary basis.

Congress has been pushing for a mandatory program since early summer, when independent refiners and wholesalers complained they were being cut off from supplies by major companies. The Senate passed mandatory allocation legislation early last month and the House was moving toward similar action.

NEWS CENSORSHIP

Mr. McCLURE. Mr. President, we are moving through one of the most difficult

periods of our history—a time when the faith of the American public in the most basic of our institutions has been horribly shaken. Above all, this is a time when the need for the truth has never been greater.

The well-being of our Nation depends greatly on the ability of the media to inform clearly, concisely, and with fact. They must constantly question—fairly, equally—all sides of any issue raised for the public judgement. But above all, the media must do their questioning and reporting in complete openness. It is this very openness that makes our free press most effective, most credible. Consumers of the news must not be denied facts germane to their making a choice—be it political, philosophical, or practical.

But if that openness and credibility is indeed denied the public, then surely we have been robbed of something precious—the ability to form an opinion based on truth. But then that is the nature of propaganda—tell only what you want told and censor what you do not want known. Holding back truths is as large a part of a "big lie" as the lie itself.

Recently, a group of distinguished Idaho broadcast journalists were addressed by a Washington, D.C. attorney who expressed the most outrageous and twisted sense of the power of the press that I have ever encountered—at least in this country.

I would ask that the following brief report filed by Boise United Press International Bureau Chief Richard Charnock be included in the RECORD. I do so with no further comment, because the news "control" extolled by lawyer Vincent Pepper is surely the most eloquent definition of censorship and political blackmail possible.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BROADCASTERS ADVISED TO MAKE USE OF POWERS

(By Richard Charnock)

McCALL, IDAHO.—Less than 10 per cent of America's broadcast stations put any "fear of the ballot box" into their elected officials, a communications attorney told the Idaho broadcasters convention Monday.

Washington, D.C., lawyer Vincent Pepper, who specializes in problems of broadcasters told the 23rd convention, "You have the power to select what is newsworthy."

He said broadcasters must get the attention of their elected officials not only by editorializing but by control of their news programs.

"If they realize you have that power, they will listen to you a little more. If a congressman does not vote the way you like, don't play his tapes. If he does—play them in prime time. That's the power you have, and you are not using it."

He said less than 10 per cent of broadcast stations in the U.S. put any "fear of the ballot box" into their elected officials.

"Newspapers are on their way out as an effective medium," Pepper said, adding that broadcasting is backing newspapers against the wall, economically.

But he said to become the "press of the First Amendment," the broadcasting industry must divest itself of excessive government regulations.

A NEW, MORE STABLE SET OF INTERNATIONAL RELATIONS IN EAST AND SOUTHEAST ASIA

Mr. ROTH. Mr. President, during the past 5 years one of the most significant of our foreign policy endeavors has been the effort of the present administration to find a new, more stable set of international relations in East and Southeast Asia. The Nixon doctrine has been steadily implemented; a cease-fire agreement has been signed in Vietnam, all American ground soldiers have been removed from Indochina and a dialog with China has been initiated and developed.

On several previous occasions, I have suggested that we build upon this foundation by seeking the realization of a truly neutralized Southeast Asia in which the countries of that region are free to develop their own societies and national identities free from the threat of great power interference. While I realize that there are many obstacles to overcome before such a neutralization could be realized, I believe that the time has never been more propitious to begin such an endeavor, thanks to the improved relations among the great powers and the interest that has been shown in regional neutrality by a number of Southeast Asian countries, most particularly the members of the Association of Southeast Asian Nations—ASEAN.

The visit to our country of the Prime Minister of Japan, Mr. Tanaka, offers a unique opportunity to further Southeast Asian neutralization. Mr. Tanaka recently proposed that the Asian and Pacific countries, including the United States, Japan, China, and the Soviet Union, meet to discuss Asian peace and stability. I think this is a valuable and constructive proposal, important because a truly effective peace in East Asia will require more than separate bilateral understandings. Moreover, such a conference could be a useful complement in our Asian diplomacy to the efforts we are now engaged in our European diplomacy, in the mutual and balanced force reduction negotiations and the Conference on European Cooperation and Security, to bring about a reduction of tensions on that continent.

Certainly Japan is one of the countries that should be involved in any great power agreement respecting Southeast Asian neutrality. Japan has an important stake in the stability of that region, which is an important source of Japanese raw materials and has a strategic position with respect to Japanese shipping routes to India, the Middle East, Africa, and Europe. For the Southeast Asian countries, Japan is a major provider of foreign investment and foreign economic assistance as well as the foremost trading partner of most of the countries of the region.

Recently my attention was drawn to a translation of an editorial in a Japanese newspaper, the Yomiuri, concerning Japanese relationships with Southeast Asian countries and Southeast Asian neutrality. Because this editorial reflects Japanese interest in Southeast Asian developments and a certain school of Japanese thinking on its involvement with the region, I ask unanimous consent for its inclusion in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOUTHEAST ASIAN COUNTRIES AND JAPAN IN TRI-POLAR WORLD

The recent US-Soviet summit talks confirmed again the co-existence of the two countries, and furthermore, laid a new course toward mutual co-operation between the US and the Soviet Union. On the other hand, China, which is opposed to the world order led by the US and the Soviet Union, has conducted an H-Bomb test, as if to answer the Joint Communique issued by the US and the Soviet Union. Thus, the US, China and the Soviet Union are engaged in diplomatic actiivties which are delicately complicated with one another. We think that the Southeast Asian countries are groping, most eagerly, for a way to gain a new international position and maintain their peace and security in a tri-polar world which has emerged after the period of the cold war.

Already two years ago when China was admitted to the UN following US President Nixon's announcement of his decision to visit China, the Southeast Asian countries began to study the position they should hold in the new order to be established in Asia. One of their plans to meet the establishment of such a new order was the plan to neutralize Southeast Asia with the assurance of the great powers, which plan was revealed by the Declaration issued by the meeting of the Association of Southeast Asian Nations (ASEAN) held in Kuala Lumpur in November, 1971.

The relative importance of ASEAN as a key organization for regional co-operation in Southeast Asia has increased, because the "organizations born of the cold war," such as the Asian and Pacific Council (ASPAC) and the Southeast Asia Treaty Organization (SEATO), have ceased to exist in practice. Also the idea of neutralization, which was revealed by ASEAN, has gained greater importance than before, in connection with the way to be followed by the Indochina countries after the termination of the Vietnam War.

The Press Communique of the sixth ASEAN Foreign Ministers Conference, which was held in April this year at Pattaya, Thailand, mentions that "The security of Southeast Asia, for which the countries in this area must be held collectively responsible, should be interpreted to mean security in the broadest sense of the word, that is, the political, economic and social security in this area, and not the security in the ordinary military sense of the word." It may be said that this statement reflects the political necessity for the same Conference to produce a general agreement in spite of the conflicting interests and opinions among ASEAN nations. We think, however, that the same statement means, in the end, that the big countries should "respect" the position of the Southeast Asian countries which must live in such an environment. We earnestly hope that Southeast Asia will become stabilized as a "neutralized area whose peace and freedom are guaranteed."

BRISK DIPLOMATIC ACTIVITIES OF SOUTHEAST ASIAN LEADERS

In reality, the idea of neutralization, which was revealed by ASEAN, has come to the wall. On the other hand, however, there are some bright prospects for its implementation. In view of the present Sino-Soviet con-

frontation, it cannot be expected, for the time being, that the neutralization of Southeast Asia will be guaranteed by the US, China and the Soviet Union, however, have announced that they will uphold or respect the same idea. Also the US, which maintains military bases in two of the five ASEAN countries, has suddenly entered a period of confrontation, and is withdrawing from Vietnam militarily. We think it may become possible for Southeast Asia to have its neutralization guaranteed by the big countries some time in the future.

Isn't it most important for Southeast Asia, which must adapt itself to the new situation, to establish diplomatic relations or improve the existing relations with China, first of all? We can understand that the Southeast Asian countries, most of which have a great number of resident Chinese merchants in their territories, are anxious about the complicated problems to be brought about by the normalization of relations with China. Under the new situation created by the termination of the Vietnam War, however, it is necessary for these countries to overcome these problems. For this reason, we think Malaysia's establishment of diplomatic relations with China ahead of other ASEAN nations, which is scheduled to take place in the near future, has great significance. We hope that relations between Malaysia and China will develop further, because it is said that the adjustment of views on the China problem has been the major subject of discussion at the summit conferences which have been held frequently among Southeast Asian countries since this spring.

Furthermore, Burma began to move for participation in regional co-operation, after the conclusion of the Paris Agreement. Burmese Prime Minister Ne Win stated, while visiting Indonesia, that "The nations in this area should confer together to discuss how to attain our common purposes." It can be said that this statement has epoch-making significance because it means that Burma will put an end to the policy of seclusion it has maintained for ten years, and will take part in ASEAN or in the conference of Southeast Asian countries which ASEAN is planning to hold under its leadership.

Expectations on Japan mixed with suspicion

It is natural that the Southeast Asian countries, which have been trying to maintain their relative stability by "taking advantage" of the cold war in their respective ways, are starting efforts to meet the new situation, at this time when new relations between the US and the Soviet Union and between the US and China are becoming clear.

One important goal, which the Southeast Asian countries must attain hereafter, is the realization of "peaceful and free neutrality" not to be threatened by intervention by big countries. Another important goal is the stabilization of the internal political and social conditions through the attainment of economic independence and the improvement of the people's livelihood. Regardless of our wishes, the existence of Japan will necessarily loom large in connection with the latter goal, because Japan and Southeast Asian countries are dependent on each other economically, though to varying degrees.

Japan relies, for instance, on Southeast Asia for most of the tin and rubber it needs. Japan also accounts for about 40 per cent of the total volume of Indonesia's foreign trade, and one-third of that of Thailand and the Philippines.

Such economic interdependence between Japan and Southeast Asian countries may serve as a foundation for good neighborly relations between the two, if it develops favorably. If it follows an erroneous course, however, it will become a source of ceaseless friction and trouble, as can be seen from the boycott movement against Japanese goods which occurred last year under the leadership of Thai students. According to the results of the opinion polls conducted by JETRO last year in Thailand and Indonesia, the peoples of these two countries are almost equally divided between those expecting an improvement of relations with Japan and those who think that relations between Japan and their countries will worsen hereafter. This indicates that the peoples of these countries are suspicious or distrustful toward Japan, while placing expectations on the future role of Japan.

This fact is also indicative of the necessity for Japan to answer the expectations of Southeast Asian countries concretely and correctly, and at the same time, endeavor to eliminate the feeling of suspicion or distrust harbored by these countries toward Japan, so that Japan hereafter can establish unshakable good neighborly and friendly relations with Southeast Asian countries.

For this purpose, it is essential for Japan to take measures in accordance with the actual conditions in the respective Southeast Asian countries instead of only pursuing immediate interests as in the past, with sufficient consideration for the positions and interests of these countries in all such fields as Governmental assistance, foreign trade, private investments and personnel and cultural exchange.

A MAJOR CONSTITUTIONAL CONFRONTATION IN OUR COURTS

Mr. MONDALE. Mr. President, the refusal of President Nixon to produce the tapes of recorded conversations which both the Senate Watergate Committee and Special Prosecutor Archibald Cox wish to review threatens to produce a major constitutional confrontation in our courts.

Perhaps just as importantly, this refusal threatens to further undermine the faith of the American people in their President and foster the feeling that there is indeed something unseemly which the President is attempting to hide through his refusal to reveal tape-recorded information.

In this connection, Mr. President, I commend a recent editorial from the St. Paul Pioneer Press and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NIXON ON WRONG COURSE

President Nixon's position on release of the White House tapes inevitably increases public suspicion that he is concealing evidence of his own involvement or knowledge of illegal activities.

By refusing to make these tapes available to either the Senate Watergate committee or to the Department of Justice's own special prosecutor Archibald Cox, Mr. Nixon defies both the Legislative and Judicial branches of the United States government.

In his letter to Sen. Sam Ervin, chairman of the Senate Committee, Mr. Nixon said: "If release of the tapes would settle the central questions at issue in the Watergate inquiries, then their disclosure might serve a substantial public interest. . . "

But then Mr. Nixon says that he has personally decided the tapes "would not finally settle the central issues" and consequently no one else will be given access to them.

So here is an elected official, the President, who stands accused by John Dean, his own former White House counsel, of involvement in criminal activities. Yet this accused President arrogates to himself the role of deciding that the taped evidence available is to be concealed and suppressed. The common sense inference is that what is being concealed would reflect adversely on Richard Nixon's claims of innocence.

Mr. Nixon tries to justify his position by his own interpretation of presidential privileges under the doctrine of separation of powers among the Executive, Legislative and Judicial branches of the government. But Special Prosecutor Cox says: " . . . any blanket claim of privilege to withhold this evidence from a grand jury is without legal foundation." He adds that "happily, ours is a system of government in which no man is above the law." Sen. Ervin and the whole bipartisan membership of the Senate Committee state that the President has no constitutional or other authority to withhold the taped evidence from the Congress.

The next step in these proceedings presumably will be court actions on the honoring of the subpoenas for the tapes from Cox and the Ervin committee. This course could lead to placing the issue before the Supreme Court.

But no matter what develops in the courts, President Nixon's case is, in a larger sense, already being considered by the American people. His hopes to continue as an effective President depend on his ability to maintain trust and confidence among the public and members of the Congress.

This objective would best be served if the President would retreat from his present stubborn attitude of defiance and open up the White House records to the Senate committee and to Prosecutor Cox. It is not too late for such action. Influential members of the Republican party might yet be able to persuade Mr. Nixon to review his position and agree to an acceptable compromise, if he has not completely isolated himself from outside advice.

BALANCING THE BUDGET

Mr. HANSEN. Mr. President, I was very enthused last Thursday when I read the President's message about Federal spending for fiscal year 1973. Although Congress had voted to keep spending for the last fiscal year at a level of $250 billion, only $246.6 billion was actually spent. This means that the actual budget deficit for fiscal year 1973 was $14.4 billion—much smaller than the $24.8 billion deficit projected by the President in his budget message last January. This amount of deficit is still cause for alarm, but it is encouraging to learn that the projected budget deficit was reduced by $10.4 billion.

I am also pleased that the President has, as Secretary Shultz so aptly put it, "returned to that old-time religion" of striving for a balanced budget—balanced in the sense that Federal expenditures should not exceed the collected revenues. This should definitely be the mutual goal of both the administration and Congress during this fiscal year and each of the succeeding fiscal years. For that reason I have joined with the distinguished Senators from North Carolina (Mr. HELMS) and Virginia (Mr. HARRY F. BYRD, JR.) in sponsoring legislation requiring the President to submit a balanced budget to Congress each year. I think it is extremely important that this country get its fiscal house in order, and it will only do so once the budget is brought into balance.

President Nixon stated in his message that—

Inflation continues to be our most important economic problem.

I would say that curbing the forces of inflation is the most pressing and important national problem. The place to start is to balance the Federal budget, for by doing so we will alleviate the economic pressures at home and contribute to the stability of the dollar abroad. When the budget is not in balance, it is the average American taxpayer who picks up the tab through higher prices, a tight money market, and eventually through higher taxes.

Congress should begin by establishing national priorities for the various categories within the budget and attempt at all times to reduce the waste and inefficiencies which so often occur with over-zealous appropriations. At the same time we must become more sensitive to the needs of all Americans and begin to realize that when more revenues are distributed by way of special interest programs than are collected through taxes, it is the average American taxpayer who is paying for the generosity we so readily exude. I am very much in favor of spending our Federal revenues to establish and expand worthwhile programs designed to alleviate the oppressive burdens some groups of Americans are asked to bear, but at the same time I think we need to establish our priorities and attempt, as does the average housewife, to live within our budget.

I am encouraged by the fact that the President and Congress seem to be willing to work together to achieve the goal of balancing our budget, and I will do all I can to help bring that goal to reality.

HUGH SIDEY ON SENATOR ERVIN

Mr. McGOVERN. Mr. President, one of the Nation's most perceptive observers of national political developments is Mr. Hugh Sidey of Time, Inc. Writing in the current issue of Time, August 6, 1973, Mr. Sidey defends the manner in which Senator ERVIN has presided over the special Senate committee investigating the Watergate scandals.

I ask unanimous consent that Mr. Sidey's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COUNTRY LAWYER AND FRIENDS

(By Hugh Sidey)

A goodly portion of the nation's lawyers seem to be in considerable anguish over the way the Watergate panel is questioning the witnesses. The letters, calls and telegrams pour in to Committee Chairman Sam Ervin with suggestions for questions, psychological tactics, and denunciations for missing opportunities to bludgeon witnesses to pulp.

In Washington, where there may be more attorneys per square foot than in any other city, the conversations are dominated by legal despair. The lawyers believe Ervin is doing an awful job in cross-examination. Young barristers and law school professors, freshly steeped in their textbook cases, are sure of it and can give you a lecture on how it should have been done.

There is now a hint in the mail that some of the public may want in on the act. Wives and husbands are arguing about separation of powers, reporters are being forced to carry copies of the Constitution with them. And all those people who were reared on Perry Mason whose steel-trap mind is always ahead of everybody else's, are wondering how come those fellows on the committee stammer, halt, fumble and they never get a witness to break down in tears and say "I did it. Take me away." I wonder.

I wonder if old Sam Ervin from Morganton, N.C., isn't a little wiser than all those kibitzers. Ervin is running an educational forum and not a court, and he knows it. The arguments are rooted in the Constitution, that is true, but now they transcend that. The big issue at this point is what each citizen thinks in his mind and feels in his heart about the President.

A big part of Ervin's job, as he sees it, is to bring all the President's men before the public, as well as the committee, and let anybody interested see them and hear them. He is resolute in his belief that there is something magic about truth. The folks after a while get some notion of who is lying and who is not. That emerges most often in small natural increments, not in blinding flashes of acrimony. The witnesses kind of do it themselves.

So old Sam runs a down-home operation with a bunch of good old boys on his committee. There's a war veteran with arm missing and a camera bug and an Ivy Leaguer and a fellow who used to cure country hams. There is some courtliness, a little cussing beyond earshot, some poetry, and a lot of Bible.

The White House does not see it that way, however. Over there they have decided that Ervin is out to get the President, that behind the "sweet little ole country bumpkin" facade lies a monster. Memories are short in this town. The Ervin committee is about as gentle as they come.

Though Sam is sore because he believes that his Constitution and his Government have been violated, there is remarkably little personal bitterness. After the day's hearings, he will tell you he still would like this cup to pass from him, to put it in his kind of language. Nothing would please him more than for Nixon to come there and drop all those documents and tape recordings on the committee table, exonerating himself. Or even, if not quite innocent, admit his errors openly and fully. Ervin gives the impression of a man willing to forgive a great deal if Nixon did that, and he thinks the country would be equally forgiving. Then Sam could go back to watching some of his favorite TV programs (*Gunsmoke* is one of them) and get a little time in the cool hills of his beloved North Carolina.

But so far the President will not yield on any front. So Sam goes on trying to open things up, goes on in his own way, which is not to press too hard, not to be overbearing or obnoxious—just kind of average American.

Something is happening out there. Almost all the polls are moving—against Nixon. There are no dramatic cave-ins, just steady erosion. Maybe that is what frightens the White House now. But Sam Ervin did not point the direction. Talking with him, one feels certain he would be about the same person if the polls were moving the other way—for Nixon. He is not after anybody. He is after something bigger—truth and honor.

If John Dean after a week of talking before the nation seems to be a threat to Nixon's professions of innocence, well, maybe that is the way it should be. And if John Ehrlichman after four days before the unblinking camera eye comes across as Attila the Hun, perhaps that, too, is a step toward the truth.

Sam Ervin said it. Rather, he borrowed from the Bible. "For whatsoever a man soweth, that shall he also reap." Sam believes it.

TIMELY REVIEW OF INTELLIGENCE COMMUNITY

Mr. PROXMIRE. Mr. President, in view of the impending confirmation vote for William E. Colby to be Director of Central Intelligence, I draw attention to today's column in the Washington Post titled "Harnessing the CIA" by Clayton Fritchey.

A full review of the intelligence community is long overdue. For a decade, Congress has deliberately looked the other way when it came to those delicate matters of espionage and "black" operations. We have allowed the executive department to take advantage of this acquiescence by broadly interpreting the mandate given to the intelligence community.

In two speeches the past month, I have pointed out the structure and operating mechanisms of the intelligence community insofar as was prudent. Many questions remain unanswered, however, and I am hopeful that the Armed Services Committee will consider some of these problems in greater detail.

When Mr. Colby comes before the Senate for a final confirmation vote, I will discuss some of the issues that require a fuller explanation by the intelligence community and I will make certain recommendations about legislative adjustments in the 1947 National Security Act and the congressional oversight function.

Mr. President, I ask unanimous consent that the Fritchey article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARNESSING THE CIA

(By Clayton Fritchey)

Watergate is educating all of us, even those hawkish, anti-Communist senators who once felt that cold-war agencies such as the Central Intelligence Agency could do no wrong, and should, in effect, be above the law, or at least beyond it.

A new day is in sight when such a veteran patron of the Pentagon and the CIA as Sen. John Stennis (D-Miss.), chairman of the Senate Armed Services Committee, revolts against the excesses and abuses of our unmonitored spies and finally decides something has to be done about it.

So now, at long last, there is a good chance the CIA will be given a revised charter more in keeping with the new "era of international cooperation." Also, there is rising hope for the creation of a new joint congressional committee to keep tabs on secret intelligence activities, just as the Joint Atomic Energy Committee acts as the watchdog on secret nuclear activities.

Stennis, apparently disillusioned by the unauthorized war the CIA has run in Laos and by the agency's involvement in post-Watergate coverup efforts, says he has been forced "to definitely conclude that the entire CIA act should be fully reviewed." It's hard to believe that the same senator could have been saying less than two years ago (November 1971): "This agency is conducted in a splendid way. As has been said, spying is spying. . . . You have to make up your mind that you are going to have an intelligence agency and protect it as such, and shut your eyes some and take what is coming."

Fortunately, it now appears that Stennis and some of his senior colleagues are not prepared to take any more. Sen. Stuart Syming-

ton (D-Mo.), who is acting chairman of the Armed Services Committee while Stennis is convalescing from a robbery assault, has always said amen to the proposed review of the CIA.

As David Wise has pointed out in his invaluable new book on "The Politics of Lying," one of the "great myths perpetuated by the CIA is that its classified budget and activities are carefully watched by four House and Senate subcommittees," one of which is the five-man CIA armed services subcommittee headed by Stennis.

When Stennis was pronouncing his benediction on the CIA in the fall of 1971, Symington scornfully said, "I wish Stennis' interest in the subject had developed to the point where he had held just one meeting of the CIA subcommittee this year, just one meeting."

At that time, the late Sen. Allen Ellender (D-La.) was chairman of the Senate Appropriations Committee, and also chairman of the CIA appropriations subcommittee, which is supposed to go over the agency's budget chief watchdog on the CIA budget, Ellender rose to defend this scrutiny during the 1971 "line by line." So, as the Senate's reputed debate.

"This is a rather ticklish subject," he said. "It is a subject that I do not care to discuss in the open." Sen. J. William Fulbright (D-Ark.), however, pointed out that the CIA's financing of a secret army in Laos was no longer a secret, which led to the following exchange:

Fulbright: "It has been stated that the CIA has 36,000 there in Laos. It is no secret. Would the senator say that before the creation of the army in Laos they came before the committee, and the committee knew of it and approved of it?"

Ellender: "Probably so."

Fulbright: "Did the senator approve of it?"

Ellender: "It was not—I did not know anything about it."

Later, Ellender explained, "I never asked, to begin with, whether or not there were any funds to carry on the war in this sum the CIA asked for. It never dawned on me to ask about it."

It was a sorry echo of a similar confession made by the late Sen. Richard Russell, who, as head of the Armed Services Committee in 1961, was the chief congressional CIA watchdog when the agency engineered the disastrous Bay of Pigs invasion of Cuba. Russell said he had no advance knowledge of the intervention and, moreover, did not want to know about it.

In the wake of Watergate and the shifting around of Nixon men, the CIA has acquired a new director, William E. Colby, who, during his Senate confirmation hearings promised to keep the agency out of domestic affairs and to curb its involvement in secret wars overseas.

No doubt Mr. Colby means well, but experience strongly suggests that the prudent course is for Congress first to narrow the CIA's charter, and then make sure that a real watchdog committee be charged with keeping a constant and vigilant eye on its operations, especially the sub rosa ones.

CONSUMER COOPERATION

Mr. GURNEY. Mr. President, on July 11, 1973, I introduced Senate Resolution 138, a resolution that calls for a national consumer effort to conserve gasoline and decrease safety hazards on high-speed roads. Basically, the resolution calls for all motor vehicle operators traveling on high-speed roads on weekends and holidays, between the date of passage and Labor Day, September 3, 1973, to travel at a speed no greater than 10 miles per hour less than the posted speed limit and to turn on their headlights to encourage fellow travelers to join in this summertime, nationwide campaign to slow down, save gas, save lives, and save money. The big question mark which will decide the resolutions success or failure will be the reaction of the American people.

On July 27 the Washington Post printed a letter written by Mr. Joel Newsom of Annapolis, Md. Mr. Newsom displays the spirit of cooperation which can make such a consumer effort a success.

Some people will say that the only way to make drivers slow down on the highways is to lower speed limits and then see that they are strictly enforced. Some say that the American people will not do anything unless they are forced to do so. Mr. Newsom's spirit is an example of why I do not believe this.

The energy crisis requires both short and long term solutions such as pipelines and energy research and development. Mr. Newsom's enthusiasm shows that if Americans join together they can contribute to the solution of the immediate gasoline shortage.

Mr. President, I ask unanimous consent that Mr. Newsom's letter be printed in the RECORD following these remarks so that it can serve as an example for all of us.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SLOGANS FOR 50-MILES-PER-HOUR

If you are the one-in-a-thousand that wants to comply with government and oil companies exhortations to motorists to reduce highway speed to 50, but are reluctant to be a guinea pig, try this: Affix a card to the lower right corner of rear window that will inform the driver of the car immediately behind you that you are driving at 50 miles an hour—and your reason for doing so. You may prefer a slogan. Here are a few suggestions:

The government says 50, I'm going 50.

Don't hate me for driving at 50, I'm saving gas.

The oil companies say drive at 50. I agree.

Try driving at 50; you'll like it. I do.

What's a few minutes saved? Let's all drive at 50.

Save gas, save nerves, save lives. Drive at 50. I do.

Let's make driving fun again by holding to 50. I am.

Many will think the idea is silly. Okay, but at least the driver behind you now understands why you are traveling slower than others and that he can safely pass when conditions become favorable. And who knows? Perhaps he and thousands of others will decide to get on your bandwagon.

After all, you have the right to do your thing. Certainly the highway patrolman will smile on you even if no one else does.

JOEL NEWSOM.

ANNAPOLIS.

GENOCIDE—AN INTERNATIONAL CRIME

Mr. PROXMIRE. Mr. President, there is much misunderstanding concerning provisions of the Genocide Convention. Article I establishes that genocide is an international crime. It states:

The contracting parties confirm that genocide, whether committed in time of peace or time of war, is a crime under international law which they undertake to prevent and punish.

In effect, this article puts genocide on the list of other international crimes which nations have agreed to punish.

Some question the advisability of formulating human rights treaties on the international level, suggesting that genocide is more of a domestc concern. But the fact that 75 nations have already become signatories to the convention establishes that genocide is regarded throughout the world as an international—not domestic—concern.

The phrase "in time of war" has led some persons to question ratification—particularly in light of our tragic involvement at My Lai. But combat actions such as the My Lai massacre are specifically not within the scope of the treaty. They are, however, covered by other international conventions.

Lastly, it has been argued that ratification of the Genocide Convention may subject our prisoners of war to new hazards. This is not true. There is nothing now to prevent enemy governments from charging captured American servicemen with trumped-up charges if they so desire, and the treaty will not increase the likelihood that this may occur.

Mr. President, I hope the Senate will ratify the Genocide Convention without further delay.

NATIONAL AIR AND SPACE MUSEUM BUILDING PLANNED FOR COMPLETION BY 1976—DIRECTOR MICHAEL COLLINS EXPLAINS PROGRESS BEING MADE

Mr. RANDOLPH. Mr. President, during my service in the House of Representatives, I authored in 1946 a bill creating the National Air Museum and it was signed into law on August 12 of that year. The name was later changed to the National Air and Space Museum.

Ground was broken last year for the Museum, which is a part of the Smithsonian Institution and located on the Mall. Work is progressing on the facility which will house items of historical significance related to aviation. It will make possible for the first time a comprehensive presentation to the general public of notable air and space exhibits. Also presented will be the mathematics, physics, fuel chemistry, metallurgy, and broad engineering bases of aeronautics and space exploration.

The Museum will house scientific and technological advancements from the December 17, 1903, flight of Orville Wright, who traveled 120 feet in 12 seconds to the Apollo 11 command module which carried Neil Armstrong to the Moon where, on July 20, 1969, he became the first man to stand on the Moon.

The command module pilot of that flight, Michael Collins, is now the Director of the National Air and Space Museum and through the dedicated leadership he is providing, the facility and its many exhibits will be ready for our Nation's Bicentennial in 1976.

Mr. President, Mr. Collins has written a very informative and interesting ar-

ticle, "Aerospace on the Mall," in the June issue of Aerospace, the official publication of the Aerospace Industries Association of America, Inc.

I ask unanimous consent to have his comments printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AEROSPACE ON THE MALL

(By Michael Collins)

To most Americans, the Smithsonian Institution means the old red, castle-like buildings on the South side of the Mall in Washington—the nation's attic, where one might find the Hope Diamond or Lindbergh's "Spirit of St. Louis." Today, however, the Smithsonian is a growing complex of museums and research facilities spread literally around the world.

On the Mall itself, the changing character of the Institution is nowhere more evident than between 4th and 7th St., S.W., directly across the street from the headquarters of the National Aeronautics and Space Administration, where the new National Air and Space Museum is rapidly rising out of a three-block-long hole in the ground.

A modern building with modern ideas, this new National Air and Space Museum is not as young as one might imagine. In fact, its charter dates back to 1946, when the late General H. H. Arnold, Army Air Corps, convinced Senator (then Congressman) Jennings Randolph, of West Virginia, that a systematic approach should be taken to preserving and displaying historic airplanes. The result was Public Law 722 of August 12, 1946, establishing a National Air Museum, whose responsibility it would be to "memorialize the national development of aviation; collect, preserve, and display aeronautical equipment of historic interest and significance; serve as a repository for scientific equipment and data pertaining to the development of aviation; and provide educational material for the historical study of aviation."

The Congress included provisions for selecting a site for a National Air Museum building to be located in the nation's capital, but it was not until 1958 that the present site was chosen and reserved for this purpose. Senator Clinton Anderson, of New Mexico; Leonard Carmichael, then Secretary of the Smithsonian; and aviation pioneer Grover Leoning, the famous aeronautical engineer, pilot, and amphibian designer, were instrumental in this process.

On July 19, 1966, Public Law 89–509 was passed, amending the name to be given this fledging: it was now to be the National Air *and Space* Museum. [I was unaware of this legislation at the time, having spent the 19th circling the earth 16 times aboard Gemini X.] This same Act authorized and directed the Regents of the Smithsonian Institution to prepare plans and construct a suitable building for the National Air and Space Museum.

Appropriations for construction were subsequently deferred by the Congress until expenditures for the Vietnam conflict had shown a substantial reduction. In 1971, with the help of Sen. Barry Goldwater, of Arizona, and James Webb, former NASA Administrator, among many others, $1.9 million was appropriated to redesign the building, to make it smaller so that it still could be constructed within the $40 million limit of Congressional authorization. In 1972, $13 million was appropriated and construction began, and mid-1973 finds a steel skeleton which daily assumes more definite form.

When completed, it will have a clean and crisp look which will create a harmonious balance between the sleek aerodynamic shapes within it and the classical elegance of its neighbor, the National Gallery of Art. The genius behid the design is Gyo Obata, of the St. Louis firm of Hellmuth, Obata and Kassabaum. Mr. Obata developed this concept after several years of study, and his award winning design has the approval of the Regents of the Smithsonian, the National Capital Planning Commission and the Commission of Fine Arts. In the shadow of the Capitol, the building will be worthy of its location, which is the finest available in the city of Washington.

The exterior of the building will be Tennessee marble of a pinkish hue matching that of the National Gallery of Art, and grey glass designed to filter out harmful ultraviolet rays.

However, as interesting as the exterior will be, it's the interior and its contents that keep me and my staff busy—planning, experimenting, refining, changing—looking for the ideal blend of subject matter. Our charter is an extremely broad one, beginning with man's first aspirations to fly, spanning his first faltering ascents in hydrogen and hot air balloons, and then recording the surge of powered flight which followed the fateful day in 1903 at Kitty Hawk.

From Kitty Hawk to the moon, the pace has been increasingly swift, the technology more and more sophisticated, the story ever more complex. No important segment of it can be slighted, not the contributions of a Goddard or a Lindbergh, nor the story of the aerospace industries and what they contribute to the quality of our lives.

In addition, I believe that a museum of this type should not only examine the past but explore future possibilities. I believe that it should not only display artifacts, but act as a catalyst in exchanging information, and to grow into a true national center for aerospace historical research.

Opposing these grandiose concepts are the realities of space and budget. The fuselage of a Boeing 747 is longer than our building is wide; a Saturn V, if parked along side it, would loom four times as high. Clearly, we must find an alternative to simply parking machines and putting velvet ropes around them. We must make the best possible use of the technology we represent in creative communications. We must communicate in a wide variety of ways: by showing objects, by labels, by sound, by film, by electromechanical and audio-visual devices of the highest fidelity and reliability. We must shift gears often, for a technique well suited for one subject may be completely inappropriate for another. For example, our hall on Ballooning may include a light, even frivolous treatment of some byproducts of the crazy era of ballooning, featuring balloon music, art, furniture—even a puppet show. On the other hand, the hall devoted to the Earthbound Benefits of Flight will be a thoughtful, carefully researched, highly documented treatment of the spinoffs resulting from air and space technology. In some areas, such at Early Rocketry, our collection may be far from complete, and substitutes for actual artifacts will be found. In other cases, however, we have more machines than floor space for their display, and the process of winnowing and selecting will be accomplished with an eye toward displaying only those machines of the greatest historic significance.

I think that our airplane collection is the best in the world. It includes the original Wright Kitty Hawk Flyer, Lindberg's Spirit of St. Louis, Amelia Earhart's Lockheed Vega, the first supersonic airplane, the Bell X–1, Billy Mitchell's Spad, a Messerschmitt ME–262 jet fighter, a Mitsubishi Zero, the North American X–15, the Douglas World Cruiser, the Langley Aerodrome, precision pilot Bevo Howard's Buecker Jungmeister, the first Boeing 707, and on it goes. In all we have two hundred and fifty airplanes, and of course not all of them will fit into the new building at once. For this reason, we will rotate exhibits as funds allow, and only a very few of the very finest (such as the Wright Flyer) will be on permanent display.

In regard to our space program, the Smithsonian has an agreement with NASA which allows us to acquire any object we wish, once NASA's technical requirement for it has terminated. From Alan Shepard's Mercury to the Apollo Eleven Command Module, we have acquired a representative sampling of spacecraft, supporting hardware, documentation, and photographs.

We have started an art collection, small at present, but one which we hope will grow, for frequently the artist's eye has captured the flavor of an important event with incomparable power and precision. Also, from a practical standpoint, color photographs may fade after fifty years, but oils are good for five hundred at least. In the new building, one hall will be devoted to air and space art, but in addition we will add paintings and three dimensional art objects wherever they enhance other exhibits.

In addition to the twenty-six exhibit halls, our new home will have two special purpose chambers for education and entertainment. One will be an auditorium with a fairly steep slanted floor, seating four hundred. The front of this room will accommodate a curved 55′ x 75′ screen, while the projection booth will be capable of handling the finest 70 mm projection equipment. With this potential for large scale visual presentations of the highest possible fidelity, we will be able to offer a dramatic substitute for viewing three dimensional objects. The auditorium will, of course, also be available for more conventional purposes, such as various lecture series which we present now and will continue to present in the future. For example, last autumn the National Air and Space Museum, in conjunction with the Smithsonian Astrophysical Observatory, hosted a nine-lecture series entitled "Man and Cosmos." During this series, some of the finest astronomers in the country provided (to standing room only crowds in a borrowed auditorium) a comprehensive and current survey of man's past and present concepts of the solar system, with particular emphasis on the results of space science research during the past decade. The auditorium in our new museum will be invaluable in allowing us to expand this type of activity.

The second special purpose chamber will be called the Spacearium, and it will most closely resemble a planetarium. The audience of three hundred will be seated in a circle under a pierced aluminum dome 70 feet in diameter. Upon this dome, from the center of the room, can be projected the night sky, including very accurate simulations of any part of the celestial sphere. In addition, special effects projectors will be used, both inside and outside the dome, to assist in creating the illusion that the visitor has left the surface of the planet and has traveled out into space. In keeping with the Smithsonian's reputation for research and accuracy, every attempt will be made to explain recent discoveries in the fields of astronomy and astrophysics, such as pulsars, quasars, and black holes. On a more frivolous, but entertaining level, the Spacearium can be used as a backdrop for a variety of non-scientific productions. It will also be a powerful teaching tool, and will be available to the District of Columbia and neighboring school systems as special school presentations are developed.

Another extremely valuable component of the new National Air and Space Museum will be the research library and information center. Unlike most other libraries, which have aerospace material diffused throughout their collections, our visitors will find concentrated in one spot a wealth of material relating to the history of flight. With more than 20,000 bound volumes and 200 periodicals, the library is today the broadest and most accessible source for scholarly research in a variety of aerospace fields, and the new building will give us room to grow. The Sher-

man Fairchild collection, for example, offers encyclopedic coverage of the pioneering early days, while at the other end of the spectrum we have one of the most complete collections of some 30,000 lunar photographs taken by Ranger, Surveyor, Lunar Orbiter, and the Apollo Lunar Missions. In general, our library is probably strongest in its photographic coverage, but it does not neglect other areas, and contains books going back to the 17th Century, as well as the most recent issues.

In some areas, the museum staff includes top experts, such as lunar geologist Dr. Farouk El-Baz, who is a renowned authority on lunar topography and morphology, and who is responsible for the lunar photo collection. While our library in its temporary quarters (the Arts and Industries Building on the Mall in Washington) is quite busy, we are eagerly looking forward to the day when we can expand far beyond our present activity level of 60 visitors, and 600 letters, per month.

In order to meet our deadline of opening to the public on July 4, 1976, it is necessary for us to get a head start in designing and constructing the exhibits to fill the 200,000 square feet of available space. We are using our temporary quarters in the Arts and Industries Building on the Mall in this effort. While not exactly modern, dating back to 1879, the Arts and Industries Building does contain four large exhibit halls whose dimensions are fairly close to those of a typical hall in our new building. In three of these four halls, we are fabricating modular exhibits as fast as our resources will allow, exhibits which can be dismantled and stored when we have a replacement for them, so that hopefully by 1976 we will have a storehouse full of exhibits which have been tested and critiqued by the public, and which can then be installed in the new building. So far we have produced a hall on Ballooning and on World War I Aviation, and we will next follow these with exhibits on Air Traffic Control, Life in the Universe, Exhibition Flying, and Flight to the Moon.

Unfortunately, modern exhibits techniques, leaning heavily on sophisticated audio-visual and electromechanical devices, can be extremely expensive—in some cases running over $60 a square foot of exhibition area. If we multiply this number by our 200,000 square foot total, the result is an alarming $12,000,000. The Congress has told us to build a $40,000,000 building, but certainly has made no commitment to finance an additional 30 percent to complete our exhibits program. Clearly help will be needed in this area, and I hope a large share of it will come from our friends in the aerospace industry. With an estimated six to seven million visitors in its first year of operation, our new building will offer an unparalleled opportunity to communicate with the American public, as well as our many foreign visitors. Our country has always been in the forefront of aerospace progress, and has benefited from it in countless ways. That message should be accurately developed in our exhibits, which have the potential of serving as an effective catalyst in the information transfer process.

But talk is easy, words are cheap. The new National Air and Space Museum will happen. The building will be completed in time for the Bicentennial. What kind of building it will be inside, what mood it will create, what message it will convey, all remain to be seen. Time and money are short; exhibits must be produced now, if 1976 is to see the opening of the most exciting museum in the world, which I have every reason to expect the new National Air and Space Museum to be.

DEPUTY SECRETARY OF DEFENSE CLEMENTS OWNS $65 MILLION IN MIDDLE EAST OIL FIRM

Mr. PROXMIRE. Mr. President, the visit of the Shah of Iran and his keen interest in the latest fighter aircraft in the United States, the F–14 and F–15, raises a number of interlocking relationships.

Deputy Secretary of Defense William P. Clements, the No. 2 man at the Pentagon is an old friend of the Shah's as a result of Clements' $65 million stock interest in the Middle East oil firm of SEDCO.

Thus Mr. Clements is in a position of being susceptible to pressure or self-interest when it comes to the question of F–14 or F–15 sales to Iran. Wisely, he has decided to remain aloof from any decision to sell these sophisticated aircraft to Iran.

Mr. President, this interlocking relationship was brought to light in Newsday by an enterprising reporter, Mr. Kenneth C. Crowe. The basic question raised by this article is to what degree does this international corporation intrude on the domestic interests of the U.S. Government? There is little doubt but that Mr. Clements will return to his old post at SEDCO once he retires from the Pentagon. And he still retains his massive financial stake in the company.

This makes for a most unusual situation, one that should have been headed off during the confirmation process. No high official of the Pentagon should be allowed to retain such a principal interest and control in a corporation that has defense ties.

Mr. President, I ask unanimous consent that the article from Newsday be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SHAH HAS A TEXAS PARTNER—DEPUTY SECRETARY OF DEFENSE HOLDS STOCK WORTH $65 MILLION IN OIL-DRILLING COMPANY

(By Kenneth C. Crowe)

WASHINGTON.—Deputy Secretary of Defense William P. Clements Jr., who yesterday showed the Shah of Iran some of the sophisticated military hardware that the U.S. is trying to peddle, has a $65,000,000 investment in a Texas corporation which does extensive oil drilling in Iran and which recently went into business with a foundation headed by the Shah.

Clements, as the No. 2 man in the Pentagon, is in a position to influence the nation's military strategy and policies around the world—including dealings with Iran, which is buying billions of dollars in weapons from the U.S.

Clements' firm, SEDCO Inc. of Dallas, has 11 oil drilling rigs under contract to the oil consortium working the nationalized Iranian oil fields. The company earned $11,000,000 from these operations in 1972. Last month, SEDCO formed a new drilling subsidiary, Sediran, an Iranian company owned half by SEDCO and half by an Iranian bank and the Pahlevi Foundation, headed by the Shah. Sediran plans to have eight new drilling rigs operating this fall in Iran.

Clements, who founded SEDCO in 1947, resigned as chairman and chief executive officer on Feb. 2 after he was named deputy defense secretary. But he has retained his stock interest of 1,638,377 shares—worth about $65,535,000. Clements' block accounts for 16.2 per cent of the firm's stock—making it the largest single holding in SEDCO. His son, B. Gill Clements, has succeeded him as SEDCO's chief executive.

In an interview last week, Clements said that the Shah definitely was interested in acquiring Grumman-made F–14 fighter-bombers from the U.S. While the size of the order remains unknown, the Shah told newsmen that his country would buy at least one of the supersonic planes. The deal apparently is still in the proposal stage.

What will Clements' role be in deciding on more armaments for Iran? A high-ranking Defense Department spokesman answered: "He's a deputy secretary of defense and there'll be a recommendation from Defense on any proposal made. He will discuss it with the secretary of defense [James R. Schlesinger] and make recommendations . . . " He added, "Secretary Clements is particularly and personally interested in this question. He is knowledgeable about the Middle East."

After this comment by the spokesman, who asked that his name be withheld, Newsday outlined Clements' business interests in Iran and asked for comment from both Clements and the department on whether they considered this a conflict-of-interest situation.

A short time later, the same high-ranking spokesman returned with a different story: "I misspoke," he said. "He [Clements] said that he had not taken part and will not take part in any negotiations or recommendations on any military equipment that the Iranian government may wish to purchase from the U.S. He said that he knows the Shah, has known him for a long time and therefore is taking part in ceremonial activities during the visit of the Shah of Iran."

The Defense spokesman said that Clements had told him, "Since SEDCO is engaged in various activities in Iran, there should not be even the hint of impropriety or improper action." He said, "Any decisions to the extent they will be made will be made by Secretary Schlesinger on the recommendations of the assistant secretary or international security affairs [Robert C. Hill."] The U.S. Government Organization Manual, published by the government, shows that Hill and the other assistant secretaries fall under Clements, who falls under Schlesinger.

The Defense spokesman said that when Clements was nominated for his present post last December, he filed with the department's general counsel's office a detailed list of his financial holdings. He said, "In that review, Mr. Clements detailed the extent of SEDCO's Middle Eastern operations in the following countries: Iran, Oman, Abu Dhabi, Dubai, Quatar and Saudi Arabia."

He also said: ". . . the General Counsel's office pointed out SEDCO is not a defense contractor. Secondly, the Senate [Armed Services] committee was fully apprised of the interests of SEDCO worldwide and did confirm him with that knowledge without requiring any divestiture of stock."

Shah Mohammed Reza Pahlevi has been here this past week—he leaves today—to discuss oil needed by the U.S. and armaments he needs for his race with the surrounding Arab nations for military supremacy of the Persian Gulf. Since the British pulled out of the area in 1971, leaving a power vacuum, Iran—fat with oil money as the second largest producer in the Mideast—has been trying to fill the void. Andrews Air Force Base yesterday for demonstrations of both the Grumman-made F–14 Navy Tomcat fighter-bomber and McDonnell Douglas' F–15 Air Force Eagle fighter. Rumors were floating that the Shah, who has a penchant for sophisticated weaponry, is considering the purchase of 30 F–14s at $14,000,000 each and 50 F–15s, price unspecified.

Among SEDCO's Iranian connections:

The company owns and operates a pipeline service base at Bushehr, Iran, to service its equipment. SEDCO is one of the largest pipeline companies in the world, and is expected to build part of the Alaska Pipeline.

Through Terra Mar Consultants, a subsidiary with offices in Dallas and Tehran, Iran, SEDCO provides specialized geological, engineering and * * * In the past year, the U.S. has sold Iran $1.8 billion in weapons—and expects to sell it billions more.

Clements accompanied the Shah to man-

agement services to oil companies and governmental oil agencies, including the National Iranian Oil Co., which nominally runs Iran's nationalized oil field.

SEDCO's land drilling activity is concentrated primarily in Iran, according to its annual report. Of the company's 18 land drilling rigs listed in the report, 11 are under contract to the Iranian Oil Consortium, which operates under the auspices of the National Iranian Oil Co.

SEDCO's drilling division president, Spencer L. Taylor, said that four or five weeks ago an Iranian company, Sediran was formed to operate drilling rigs in that country. He said he expected to have eight more rigs working in Iran, through Sediran, this fall. Taylor said that SEDCO has a 50 per cent interest in the new company and that the balance is held by an Iranian bank and the Pahlevi Foundation, which was set up by the Shah to further education, public health, agriculture and public welfare in Iran. The foundation is headed by the Shah and among its officers are Iran's prime minister, the speaker of parliament and the president of the supreme court.

SEDCO, most of whose operations are overseas, was founded in 1947 by Clements, T. L. Wynne Sr. and I. P. LaRue Sr., father of former White House aide Frederick C. LaRue. Starting with a single rig, the company has become the largest offshore drilling company in the world and a major factor in the pipeline-laying business.

In 1972, Clements served as cochairman of the Texas Committee for the Reelection of the President and regional chairman of Business and Industry for Nixon.

When asked at his confirmation hearings why he wanted the Defense post, Clements replied: "I would have to say that my only motive in accepting this job, with all of its problems that are inherent in leaving Dallas and my business and my other activities, is one of patriotism . . ."

ANDREI AMALRIK

Mr. JACKSON. Mr. President, I would like to call the attention of my colleagues to a sobering analysis of the "cost of dissent in Russia" which appeared in the New York Times magazine of July 29. It is the case history of Andrei Amalrik, one Soviet liberal writer for whom the cost of dissent has been exile to Siberia, imprisonment, and now reimprisonment.

I ask unanimous consent that the article by Susan Jacoby entitled "Andrei Amalrik, Rebel," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COST OF DISSENT IN RUSSIA—ANDREI AMALRIK, REBEL

(By Susan Jacoby*)

The last day of Andrei Amalrik's three-year prison sentence for spreading "falsehoods derogatory to the Soviet state" has arrived. The 35-year-old scholar, writer and critic of the Soviet regime has paid dearly for insistence on what he has described as "the freedom which allows the authorities to do much to a man, but which renders them powerless to deprive him of his moral values." His term in a prison camp in the bleak northeastern region of Magadan expired on May 21.

But he failed to return to his home in Moscow, and his wife, Gyusel, made repeated telephone calls to officials in the camp only to learn that he was being held for investigation on new charges. Soviet law allows the state to investigate prisoners without releasing them at the end of their old terms. This provision is used as a selective, sometimes bewildering arbitrary weapon against political dissenters. Amalrik's trial was held at the camp in mid-July—and he has just been sentenced to another three years. Why he was again singled out is known only to the K.G.B. (Committee on State Security).

Andrei Alekseyevich Amalrik is best known in the West for his essay "Will the Soviet Union Survive Until 1984?" which combines a skeptical analysis of the possibilities for democratization in his country with speculation on the possible disintegration of the Soviet state through the catalytic force of war with China. He is also the author of "Involuntary Journey to Siberia," a superb journalistic account of his initial exile from Moscow as a "social parasite" in 1965. His books circulated inside the Soviet Union in underground typewritten *samizdat* (the Russian word literally means "self-published") copies before publication in the United States and Western Europe.

In many respects, Amalrik is the most original thinker to emerge from the spectrum of Soviet dissent during the past 10 years. He is essentially a rationalist and a pessimist who sees few redeeming qualities in either the Soviet political system or what he regards as the official Soviet value system. In "Will the Soviet Union Survive Until 1984" he asserts that "the Christian ethic, with its concepts of right and wrong, has been shaken loose and driven out of the popular consciousness. An attempt was made to replace it with 'class' morality, which can be summarized as follows: Good is what at any given moment is required by authority." In his concern over the absence of moral values in modern society, Amalrik is a throwback to the generation of prerevolutionary intellectuals who survived the Stalinist terror and lived to disinter the cultural heritage many had thought moribund.

Amalrik finds little hope of positive change in a society he divides into three main groups—a ruling bureaucratic élite, an insecure middle class concerned mainly about retaining its own economic privileges and a vast underclass of peasants and unskilled workers. In his view, people in the lowest class are so dulled and brutalized by centuries of repression that they are—at least at this stage of history—incapable of grasping the concepts of intellectual and economic freedom. This generally pessimistic analysis sets Amalrik apart not only from many contemporary Soviet dissidents but also from the mainstream of Russian political dissent flowing from the last century. The goodness of the *narod* (people) is an almost mystical concept in Russian political thought, and it survives today in both official Soviet and dissident ideologies.

Amalrik speaks with the voice of both an observer and a participant in the affairs of his country. Mother Russia moves him no more than Marxist-Leninist slogans. For Amalrik, patriotism is more a function of critical thought and honorable behavior than personal emotion. At his trial in 1970, he answered the charges that his writings were aimed against his native land in this way: "It seems to me that the main burden of my country at this time is to throw off the burden of the heavy past, and to do this my country needs free critical discussion and not self-praise. I think I am more of a patriot than those who shout about their love for the fatherland and who really mean love for their privileges."

The dispassionate quality in Amalrik's thought and personality is one reason he could never be a towering international symbol of dissent like his countryman Aleksandr Solzhenitsyn. There is too much irony and deadpan humor in his view of the world, too little self-importance in his personal manner for him to attain the stature of a symbol. It is impossible to imagine Solzhenitsyn telling an American television correspondent, as Amalrik did, that his Teddy bear had become a Maoist and received a Mao button as a souvenir of their Siberian exile.

"Does the Mao button mean that you are a Maoist?" the correspondent asked as the camera whirred.

"No, not me," Amalrik replied, his bright blue eyes staring innocently into the lens. "Only my Teddy bear."

In Moscow, he was not a signer of collective protests or a leading figure in the tiny, fragile coalition of political dissent which came to be known as the "democratic movement." He was a loner and an abrasive personality who baffled and antagonized his fellow dissidents almost as regularly as he antagonized Soviet officials. He frequently appeared outside courtrooms where other dissidents were being tried to demonstrate his moral support, but his own dissent was essentially the personal act of a rebel who, in Albert Camus's terms, "from his very first step, refuses to allow anyone to touch what he is."

The puzzle Amalrik posed for both his friends and foes is exemplified by a personal protest he made with Gyusel when they heard the Biafrans were starving to death during the Nigerian civil war. Andrei and Gyusel picketed the British Embassy in Moscow with signs urging Prime Minister Harold Wilson to end his support for the Federal Nigerian leader, Gen. Yakubu Gowon. Picketing the British was also an effective way to protest Soviet support for the Federal Nigerian side without getting arrested for an "anti-Soviet" act. A Soviet policeman who was guarding the embassy walked over to them and inquired in a friendly genuinely bewildered tone: "Of course I don't know what it is you're carrying signs about, but why do you do this by yourselves? Why don't you have a *kollektiv*?"

Andrei defined his personal philosophy in an open letter to Anatoly Kuznetsov, the Soviet author of "Babi Yar," who defected to the West during a trip to London in 1969. The letter, also entered as evidence by the state prosecutor in the 1970 trial, emphasized Andrei's constant theme—the need to preserve one's internal freedom regardless of outside pressures.

"You say that the K.G.B. has persecuted and blackmailed the Russian writer," he wrote Kuznetsov. "Of course, what the K.G.B. has done can only be condemned. But it is difficult to discern what the Russian writer has done to oppose this.

"The struggle against the K.G.B. is terrible, but what was the threat to the Russian writer if, before the first step abroad, he had refused to collaborate with the K.G.B.? The writer would not have gone abroad but he would have remained an honest man. By refusing to collaborate in this way, he would have lost a portion—perhaps a considerable portion—of external freedom but would have achieved a greater inner freedom.

"I want to condemn the philosophy of impotence and self-justification which runs through all you have said and written in the West. 'I was given no choice,' you seem to be saying—and this sounds like a justification not only for yourself but also for the whole of the Soviet creative intelligentsia, or at least for that liberal part of it to which you belong."

The formation of a man who makes Andrei Amalrik's choices is a complicated process; his wife believes that his family played a significant role. His father, Aleksei, was born in Moscow in 1906. The elder Amalrik's education was interrupted by the revolution, and he always wanted to enter a university even though he worked for years as a lighting technician in a film studio. He was encour-

* Susan Jacoby, a freelance writer, lived in Moscow from 1969 to 1971. She is the author of "Moscow Conversations."

aged in his aim by Andrei's uncle, who was a prosecutor for political cases at one point during the Stalin epoch.

The uncle was arrested during the 1937 purges and sentenced to five years in prison camp. He was executed instead of being sent to camp because he lost his temper at the end of the trial and shouted, "This is not a Soviet court but a fascist torture chamber!"

Andrei was born in 1938 after his parents had been married 10 years. His father was about to complete his history studies at Moscow State University when the Germans invaded the Soviet Union in 1941. He was drafted and soon commissioned a lieutenant, but he made the mistake of remarking in the presence of several fellow officers that Stalin was responsible for the lack of military preparedness which allowed the Nazi armies to advance so swiftly into the Russian heartland during the early months of the war. He was arrested the next day and sentenced to eight years in camp. Like many imprisoned soldiers, the elder Amalrik was pardoned in 1943 because officers were desperately needed during the German siege of Stalingrad. In the spring of 1944, he was seriously wounded and classified an invalid.

"I was against the system when I was a child," Andrei said in an interview with Times correspondent James Clarity in 1970 after the books were published. "My protest is not here," he said, pointing to his head, "but here," pointing to his stomach. "It is organic. I am so opposed to this system that I want to do something with my hands. . . . I am against the regime not because it is dishonest, but from organic repulsion. For example, I cannot listen to the Soviet radio. I cannot read Pravda. It is crude, stupid and full of lies."

Andrei does not fit the standard mental image of a man who feels like doing something with his hands to oppose a political system. His slight stature and hollow chest bear evidence of the congenital heart defect discovered in childhood and the undernourishment of growing up in Russia during the war. His nearsightedness reflects years of intensive reading in badly lit rooms. Before he was sent to prison, he had a crewcut that made him look younger than his years. (Prisoners heads are shaved.)

Andrei's first open conflict with the Soviet system came when he was a history student at the same university in 1960. His diploma dissertation dealt with the ninth-century state of Kievan Rus; he concluded that the early Russian civilization was strongly influenced by Norman traders. Despite its seemingly distant and obscure subject, Andrei's dissertation was politically unacceptable because it contradicted the official historical line that Russian culture and civilization were produced by the Slavs alone. His senior professor told him the research was brilliant and the dissertation would be accepted if he would simply abandon his conclusion. Andrei refused and was expelled from the university. In the Soviet Union, expulsion from a university effectively bars a former student from any occupation appropriate to his training and intellectual ability.

The diploma dissertation was also responsible for Andrei's first official contact with the K.G.B. He wanted to send his aborted paper to a Danish professor of Slavic languages who shared his views and with whom he had been corresponding. Assuming the manuscript would be confiscated by the Soviet customs censor if he tried to send it through the open mails, Andrei requested the Danish Embassy to convey his dissertation to the well-known professor. The embassy agreed and sent an official representative to pick it up at Andrei's apartment. Without informing Andrei, the embassy then sent his manuscript to the Soviet Ministry of Foreign Affairs, which immediately turned it over to the K.G.B. The consequences were not serious at the time, because the K.G.B. apparently decided there was nothing overtly anti-Soviet in the material, but Andrei was warned not to make any further attempts to send the manuscript abroad.

The Dutch Embassy's action is significant because it typifies the behavior of many foreigners in Moscow—diplomats, journalists and businessmen—who find it impossible to accept the actions of people like the Amalriks at face value. In "Will the Soviet Union Survive Until 1984?" Andrei observes that Soviet society is characterized by a broad "gray belt" of activities that are permitted in theory but prohibited in practice. Because most Soviet citizens are afraid to engage in activities that fall within the gray zone, foreigners are automatically suspicious of Russians who are courageous enough to exercise their theoretical rights. An act that would seem perfectly normal in most other countries—like Andrei's attempt to communicate with the Danish scholar—is often regarded by foreigners who live and work in Moscow as K.G.B. provocation. In the pirandellolike atmosphere where Russians and foreigners meet, a Soviet citizen who invites a foreigner to his home is either hero or *agent provocateur*. Such attitudes do protect foreigners from genuine K.G.B. attempts at entrapment, but they are painfully insulting to people like the Amalriks, who wish to be regarded as neither heroes nor spies but simply as unintimidated human beings.

After Andrei's expulsion from the university, he lived alone with his father, who was partially paralyzed from a stroke and needed constant care. Andrei himself was excused from military service because of his heart defect. He took temporary jobs which gave him free time to look after his father, working at everything from delivering mail to keeping time at sports events. He devoted considerable effort, also, to writing plays, which he regarded as his real work.

Andrei acquired a small collection of unofficial abstract art, which flourished among intellectuals in the post-Stalin thaw despite Nikita Khrushchev's characterization of it as "dog s—." His involvement in the unofficial art world and his desire to promote the paintings of his friends were responsible for his early contacts with foreigners in Moscow.

It was not surprising when the combination of these "gray" activities led to Andrei's exile as a parasite in 1965. The parasite decree issued in 1960, provided that anyone who had not held a steady job for a month could be exiled from the cities to do "socially useful work," usually on collective farms in the most desolate, frigid regions of the country. Aimed at chronically absent or drunken workers, the law was soon used by the K.G.B. against intellectuals who wanted to spend their time writing, painting or pursuing other activities outside the official Soviet culture.

Andrei's exile to a Siberian collective farm provided most of the raw material for "Involuntary Journey." His reporting is distinguished by attention to detail and a precise sense of the difference between facts and subjective emotions. Striking a balance between amusement and outrage, Andrei meticulously describes every aspect of the Soviet machine that disrupted his life. There is a police inspector who spies a nude Matisse drawing on Andrei's wall during a search and volunteers the information that he can be sexually aroused only by fat women. He asks for Citizen Amalrik's opinion "as a scholar" of this sexual quirk. There is the former director of a wallpaper factory who receives a six-year camp sentence for embezzling 400 rubles—the equivalent of four months' salary for an average worker at the time. Andrei asks an interrogator why the man reecived such a long sentence for a small sum, and the police official replies: "Four hundred rubles is what he was caught with, but he must have stolen much more."

The Siberian exile had a much bitterer side for Andrei. After he received a telegram with the news that his father was seriously ill in the fall of 1965, Andrei obtained permission to return to Moscow for 18 days. His father was already dead when he arrived after bureaucratic delays and a trip on the Trans-Siberian railway. During this unhappy furlough in Moscow, he persuaded Gyusel to marry him, though they had met and seen each other only three times just before his exile. She returned with him to Siberia.

Gyusel is a painter whom Andrei had met through the unofficial art world. A full-blooded Tatar, she inherited an exotic and arresting combination of features—lustrous blue-black hair, an ivory skin that needs no cosmetics, near-black eyes with a slight upward tilt at the corners, the elongated neck and graceful shoulders of a Modigliani portrait. She is tall and proud and beautiful, and she never complains about the life she chose.

"I did not think of him as a political person when we were married," she once told me. "He had been in trouble as a student—but that happened to a great many intelligent students. He was interested in art, and most of the people in the unofficial art world seem odd by the standards of orthodox Soviet society. I only thought Andrei was an extremely intelligent, sensitive man. Did I think of myself as the wife of a Decembrist? Of course not. If we could foresee the future, how could anyone bear life."

Andrei and Gyusel both describe their life together in a collective farm in Siberia in terms of poverty and near-starvation. There was not enough food during the bitter winter for the ordinary farmers, much less the political exiles. Andrei and Gyusel ate potatoes three times a day, their meals becoming skimpier as the winter wore on and the supply dwindled. He and Gyusel would wade through snow waist-deep to chop wood for their cabin to keep from freezing to death. One of Gyusel's paintings describes that Siberian winter more fully than any words. Naked from the waist up, she is standing in front of a mirror. Andrei, gaunt and bearded, is bundled up in a sweater behind her. Their carriage is resolute, but both figures seem to quiver with cold. Gyusel had intended to produce a self-portrait, but she included Andrei because he liked to stand behind her and watch her work. She painted in half-hour stretches because her skin began to turn blue from the cold if she stood any longer without her sweater. The finished portrait conveys a sense of austerity and private pain. "We were beginning to understand what our lives would be," Gyusel said later.

Andrei was allowed to return to Moscow in July, 1966, after serving 18 months of his three-year exile. In a highly unusual move, his conviction was reversed by the Supreme Court of the Russian Republic, possibly because it had been a violation of Soviet law to classify the only living relative of an invalid as a parasite. But the decision was carried out too late. The invalid, of course, was dead.

Andrei and Gyusel were able to rent one room in a communal apartment just off the Old Arbat, Moscow's most important mercantile center before the revolution. The Amalriks' room was a sunless rectangle, about 15-by-10 feet, at the back of the communal flat. They shared the kitchen, bathroom and telephone with 11 other people; some of the neighbors spat into the phone and hung up if a call came for Andrei and Gyusel while they were not at home.

The spare furnishings included a treasured piano they insisted on keeping in the crowded room because it belonged to Andrei's father, a desk which doubled as a dining table, a wardrobe, a rickety bookcase and a few chairs. The library consisted mainly of 19th-century literature, historical works and a few art books that were presents from for-

eign friends. The library thinned out over the years as the K.G.B. carried off books in successive searches. The walls were covered with paintings by unofficial Moscow artists and Gyusel's own work. Gyusel painted and Andrei wrote in the confined space.

The apartment conjured up an image of the room above the antique shop in George Orwell's "1984," where Winston and Julia made love under the illusion that they were beyond the reach of the Thought Police. There were no illusions in the Amalriks' room; they knew exactly where the K.G.B. microphones were located. It was somehow possible to ignore the unseen listeners because Andrei and Gyusel insisted on the integrity of their own home.

They entertained friends, both Russians and foreigners, who were interested in the same subjects they were. The conversations ranged from old Russian history to jazz; the only words suppressed by the microphones were the names of other Russian friends. There was always Gyusel's fragrant home-brewed tea and some sort of food, even when they were nearly out of money. On one occasion, foreign friends arrived unexpectedly when the Amalriks were down to their last five-ruble note. Andrei handed Gyusel the money and suggested that she go to the grocery store and buy a snack for their guests. She returned with a small flower vase, saying there was no food worth buying. "Obviously, this is for you," Andrei said, handing the vase to their friends. "You see what kind of a practical wife I have."

The Amalriks were poor, although their financial situation was not as desperate as it was in Siberia. Gyusel earned some money painting portraits for foreign diplomats and journalists. Andrei took the same kinds of odd jobs he held before his exile. For a short period, he was able to write articles on insignificant subjects for little-known Soviet publications. However, the K.G.B. quickly cut off that source of income. Despite the precarious state of their finances, Andrei tried to donate royalties from an old archeology book written by his father for the restoration of art works in Florence after the devastating 1966 flood. His attempt was unsuccessful, since the Soviet authorities never willingly convert rubles into hard currency.

Andrei read German easily, although he lacked the practice to speak it fluently. He enjoyed talking to foreign friends who spoke German, and he often expressed the intention of teaching himself English if he were imprisoned and had some "spare time."

"Prison won't be so bad," he said. "I'll be living a life of luxury, paid for by the state, and it will give me a lot of time to think. To each according to his needs." Many of his fellow dissidents were ambivalent about Andrei because of his pessimism about the future of the democratic movement. Some were unsympathetic to his interest in matters outside the Soviet Union. "How can he care about floods in Florence," one asked, "when we've never had our heads above water in Russia!" However, the other dissenters respected Andrei even when they disagree with him, as he respected them.

Amid the uncertain condition of their lives, it was remarkable that Andrei managed to complete the 95,000-word manuscript for "Involuntary Journey" and the 15,000-word essay "Will the Soviet Union Survive Until 1984?" in a three-year period. But he managed to finish them by late 1969.

"Will the Soviet Union Survive" is a combination of scholarly observation which could only have been made by a Russian and speculation which bears some resemblance to the tea-leaf reading of Western Kremlinologists. Amalrik's observations on the Soviet middle class and its relationship to possible democratic changes are unique. "As is well known," he writes, "in any country the stratum of society least inclined toward change or any sort of independent action is that composed of state employes. . . . In our country, since all of us work for the state, we all have the psychology of Government workers." He concludes that the Soviet middle class does not provide a sufficiently strong base for a democratic movement, even though it has the most to gain from an extension of democratic principles and the rule of law.

He also challenges what he regards as a widely held American belief that the Soviet Union is bound to evolve into a more liberal society and that "foreign tourists, jazz records and miniskirts" will hasten the day. "It is possible that we will indeed have a 'socialism' with bare knees someday," Amalrik argues, "but not likely one with a human face."

The book is so iconoclastic by Soviet standards that it would seem laughable to pursue the idea that the author was secretly under the protection of the K.G.B. Nevertheless, there were persistent rumors that Amalrik was a K.G.B. agent, especially after he wrote his open letter to Kuznetsov. In the West, Kuznetsov was being portrayed as something of a hero; a few journalists in Washington and London swallowed the idea that anyone who criticized him must be working for the secret police.

They ignored the fact that Andrei did not rebuke Kuznetsov for leaving the country but for his actions as a member of the official intelligentsia inside the Soviet Union. One of the most ridiculous pieces of "evidence" in support of the theory of an Amalrik-K.G.B. connection was the fact that foreign correspondents were visiting the Amalriks on several occasions when the K.G.B. arrived to search their apartment. It is literally impossible for a Moscow correspondent who sees dissidents to avoid encountering the K.G.B.; surveillance is too much a part of the lives of both groups.

The six-month hiatus between publication of Andrei's books and his arrest in May, 1970, also added fuel to the rumors that he was a secret police agent. At one point, Andrei told his wife he hoped to receive a severe sentence that would end the K.G.B. rumors once and for all. Unlike the foreigners who were circulating the rumors, the Amalriks knew it was only a question of when—not whether—Andrei would be arrested.

"It got so we were afraid to leave the apartment," Gyusel recalled. "We were so frightened that Andrei might be taken while he was on the street or while I was away from the apartment, and we wouldn't have a chance to say good-by."

The arrest came when they were together in a small country cabin about 105 miles southeast of Moscow. Amalrik described himself then: "Patiently awaiting his return to prison, he occupies his time growing cucumbers and tomatoes."

Gyusel did not see her husband again until his trial the following November; Soviet law does not permit visitors while an investigation is being conducted. Andrei was charged under Article 190–1 of the criminal code, which prohibits dissemination of "falsehoods derogatory to the Soviet state" and carries a maximum three-year sentence. The case against him was based on the Kuznetsov letter, his two books and transcripts of two interviews with American television correspondents.

He pleaded innocent at his trial, but he did not try to prove his case because he insisted that "the principle of freedom of speech obviates any question of guilt." In this respect, he differed from certain other dissidents who have attempted to prove that their writings or statements were not, in fact, slanderous or derogatory to the Soviet state. Andrei told the court that "to sentence ideas, whether they are true or false, seems to me to be a crime in itself." Andrei's closing statement, in which he compared the trials of dissenters to medieval witch hunts, was believed to be responsible for his receiving a stricter sentence than the one demanded. The prosecutor asked for three years under an ordinary camp regimen; the judge sentenced him to three years under a more restrictive set of prison rules known as an intensive regime. As Andrei was taken out of the courtroom by police, Gyusel threw lilacs after him. One of the guards stomped on them, but an old cleaning woman picked up the flowers and tried to smooth them out.

Returning to their apartment in Moscow, Gyusel tried in some ways to carry on the life they had lived together. One night she arrived for dinner at my house in a floor-length maroon velvet evening dress. "I will not wear black while Andrei is in prison," she said. "He would want me to be proud and beautiful, not ugly and despairing."

But she found it nearly impossible to keep up her spirits when she learned in March that Andrei had nearly died of meningitis during the grueling trip to the Far East after the trial. He wrote her about his illness when he recovered consciousness; fellow prisoners told him he had been delirious for 15 days. He was removed from prison to a hospital only after he was so close to death that the director of the prison convoy refused to accept the responsibility for transporting him any farther.

Gyusel flew immediately to Siberia to inquire in person about Andrei's health. Camp officials refused to let her see him on grounds that her presence would overexcite him and impede his recovery. They did allow her to leave a toothbrush and a small package of nonperishable food, including 30 packets of instant Swiss beef-bouillon mix. Gyusel could not bring toothpaste because the guards would have had to squeeze it all out to make sure no messages were concealed inside. Unfortunately, Andrei was not able to use the bouillon mix because the Western packets were unfamiliar to the camp guards. They confiscated the tiny envelopes; foreign objects might be concealed inside.

Gyusel's hair began to fall out in large clumps after Andrei's illness; a hairdresser told her nerves were the cause. In Andrei's letters he told her to try to stop worrying so much about him. "One lock of your hair is dearer to me than 30 cubes of beef bouillon," he said. Andrei's hearing was permanently impaired by the meningitis; he was classified an invalid and excused from hard labor. When Gyusel visited him three times a year, she usually found him in good spirits, occasionally sending off letters of protest to camp authorities about violations of prisoners' legal rights.

Gyusel's main fear was that he would return from camp, write another book and be sent back to prison under a more severe law which permits seven-year sentences. She admitted that "I have said to him, 'Yes, you have your inner freedom, but a person also needs some freedom to breathe the air.' But I would not want him to be a different man—one person can't make moral decisions for another."

Assuming that Amalrik would be released on schedule in May, the Harvard University Russian Research Center and George Washington University both invited him to lecture and conduct research at their institutions. As the invitations were on their way to Moscow, news reached the United States that Amalrik was still in prison. The new indictment cited him once again for spreading "falsehoods derogatory to the Soviet state," this time among camp inmates. In such trials, camp guards and other prisoners are usually called as witnesses; the defendant is without a lawyer, and there are no courtroom spectators.

Because the Soviet authorities have allowed several prominent dissidents to emi-

grate during the past year, Andrei's friends had hoped that he would be permitted to, also. But there was no assurance that he would have accepted the invitations to leave the Soviet Union even if he were offered the choice.

His fate has attracted international concern, including that of the Association of American Publishers, which has made formal protests to top Soviet officials and a newly formed group of publishers and writers which still hopes to arouse sentiment in the United States Congress. How effective such lobbies can be on behalf of one individual so isolated and alone no one, of course, can say. "It's not like the Jewish immigration issue," one publisher conceded. "There just isn't any effective lobby on behalf of one man." But Andrei Amalrik, who always understood the consequences of dissident life, would be the last person to expect help. And as his wife told a friend in Moscow after he had nearly died of meningitis in the prison in Siberia: "In spite of everything, he is freer inside himself in jail than any of us who are walking around on the streets."

ANDREI AMALRIK SPEAKING

(An excerpt from "Will the Soviet Union Survive Until 1984?")

Scientific progress is generally considered the fundamental direction of contemporary development, and total nuclear war is regarded as the basic threat to civilization. And yet even scientific progress, with every passing year consuming progressively more of the world's production, could become regressive and civilization may perish without benefit of a dazzling nuclear explosion.

Although scientific and technical progress changes the world before our very eyes, it is, in fact, based on a very narrow social foundation. The more significant scientific successes become, the sharper will be the contrast between those who achieve and exploit them and the rest of the world. Soviet rockets have reached Venus, while in the village where I live potatoes are still dug by hand. [He is referring to the village of Akulovo, where the Amalriks spent summers in a small cabin.] This should not be regarded as a comical comparison; it is a gap which may deepen into an abyss.

The crux of the matter is not the way in which potatoes are dug but the fact that the level of thinking of most people is no higher than this manual level of potato digging. In fact, although in the economically developed countries science demands more and more physical and human resources, the fundamental principles of modern science are understood by only an insignificant minority. For the time being this minority, in collusion with the ruling élite, enjoys a privileged status. But how long will this continue?

THE SENATE IS DRAGGING ITS FEET ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in 1 week the Senate will break for a 1-month summer recess. I hope that after the recess we can take affirmative action on ratification of the Genocide Convention.

The United Nations General Assembly adopted this treaty on December 9, 1948, by a vote of 55 to 0, and 6 months later, President Truman submitted the convention to the Senate. In 1950, a subcommittee of the Foreign Relations Committee favorably reported the treaty to the full committee, but the committee took no final action.

Thirteen years later, Secretary of State Dean Rusk stated that, if the Senate would advise and consent, the Kennedy administration would ratify the Genocide Convention. In 1965, the Johnson administration repeated this pledge.

President Nixon, on February 19, 1970, recommended that the Senate "consider anew this important convention and to grant its advice and consent to ratification." He said that ratification would "demonstrate unequivocally our country's desire to participate in the building of international order based on law and justice." It should be added that the then Attorney General, John Mitchell, agreed with the Secretary of State's judgment that there were no constitutional obstacles to such U.S. action.

And now it is 1973, nearly a quarter of a century since the U.N. first adopted the treaty, and still the U.S. Senate has not ratified it. I have spoken in this chamber virtually every day for over 6 years on why we should ratify the convention, and I have rebutted the arguments raised against the agreement by its critics. There are no legal or moral barriers which should prevent the United States from becoming a contracting party.

Seventy-five nations, including most of our NATO and SEATO allies, are signatories to this treaty. Mr. President, I urge the Senate to stop dragging its feet. Ratify the Genocide Convention and allow the United States to become No. 76.

THE MANAGEMENT OF THE NATIONAL FORESTS

Mr. McGEE. Mr. President, during the short span of time encompassed by this coming week, decisions will be made for which America's national forests shall suffer or prosper for many years to come. This disproportioned ratio of minutes of cause to years of effect must weigh heavily upon the considerations we in the Senate are about to give to two very important matters—the Interior appropriations bill and the Packwood log export bill, S. 1033.

At no time in our history have the resources of America's great forests been more treasured or used. And yet, I would offer, without fear of contradiction, that at no time have our forests been more spent and abused. The course by which this country's incalculably valuable forest resources are being managed runs counter to the needs of today's Americans and the interests of tomorrow's citizens. Our national forests are being cut at a faster rate than ever before, and the replenishment of American timber lags in increasing numbers of acres with each passing year. The result is that America has less and less timber. That is the inescapable conclusion, the despicable result, which must be attached to the present timber management program being carried out in the United States today.

It is, therefore, particularly maddening to see a Forest Service budget which intends to reduce even further its reforestation program, a program that already fails to recover the vast amounts of forest land acres that are timbered. In the spring of this year, as the Interior Appropriations Subcommittee considered this budget, I asked the Forest Service why it was cutting back the reforestation program by 4,500 acres and why timber stand improvement was being reduced more than 100,000 acres. The Forest Service replied,

> The President has indicated an urgent need to hold the line on Federal spending to avoid further inflation and the need for a tax increase. In order to follow this direction, it has been essential to delay work on many desirable programs.

Two things seem apparent from that Forest Service reply. First, there can be no doubt that our timberland resources are being lessened with each year. Second, the shots are not being called by the Forest Service, but rather the White House, more specifically, the Office of Management and Budget.

Mr. President, I believe my colleagues can well understand my dismay when the Washington Post reported last Friday that the already record timber harvest of 11.8 million board feet, planned by the Forest Service for fiscal year 1974, would be increased by an additional 10 percent. In that same article, Chief of the U.S. Forest Service, John McGuire, made it quite clear that the 10 percent would be cut in response to a directive from the OMB. And so, more acres are laid to waste, and the gap between cutting and reforestation widens.

In its zeal to formulate the balanced budget and curb inflation, the staff of the OMB has overlooked one important cause of rising prices: scarcity. The forest management program, which these dubious experts of silviculture have arm twisted the Forest Service into advocating, is designed to provide just that—scarcity. The problem may not become immediately acute; it may never prove an embarrassment to the current administration, but it will come. Congress has the responsibility to provide for the future of this Nation, and I call upon my colleagues in the Senate to advocate and defend a sensible program that will keep America rich in her timber resources. I ask for nothing more than a tree to be planted in the national forest for every tree removed. I ask that we accept nothing less in our consideration of the fiscal year 1974 Interior appropriation, and that we insure its proper and complete execution.

Our work shall not be complete, however, until approval is won for Senator PACKWOOD's log export bill, S. 1033. This bill is essential, if we hope to provide sound legislation for the management of our timber resources.

My colleagues are familiar, I suspect, with my longstanding struggle to provide for an impartial study of the effects of clearcutting in our national forests. By that fight, many other aspects of national forest management have revealed themselves to me, particularly, the relationship of public and private lands as they are used by timber companies. Quite simply, because there already exists a limit on how much timber may be exported from a national forest, the large timber companies simply export timber off their own lands and process for lumber that which they cut in national forests.

It is by this sleight-of-hand policy that we in the Senate find ourselves assaulted with some very confusing arguments; arguments which contradict one another yet come from the same source. On the one hand, timbering interests have told us:

No more wilderness. You are causing a national timber shortage and higher lumber prices.

Then we are told:

Don't limit log exports. Our mills have all the wood they can handle, exporting is the only sensible thing to do with the excess logs.

My colleagues may be assured that both pleas are equally sincere, though perhaps not for the reasons stated. The national forests must remain open to the timbering interests so that they can cut as and where they please, leaving their own timber resources for export abroad. Log exports must not be limited, because with the national forests to back up their own supply, they need never worry about a resource to exploit.

While the Packwood bill provides definite restrictions on the cut from national forests which may be exported abroad, I hope my colleagues will agree that the export limit means much more to our national forests by its ability to limit the covert removal of that timber to facilitate the export of private timber resources abroad. I am confident that the successful passage of this bill will allow much of the pressure placed on our national forests to be removed.

Mr. President, I am confident that this week will be a turning point toward better forest management. The problems and their respective solutions stand in clear perspective, and I know my colleagues wlil act appropriately.

Mr. President, I ask unanimous consent that two articles recently appearing in the Washington Post, which I believe timely to the considerations on national forest policy we will be taking up this week, be printed in the RECORD for the perusal of my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CUT MORE, FOREST SERVICE TOLD—GUIDELINES URGE DOWNPLAY IN RECREATIONAL USE

(By George C. Wilson)

The U.S. Forest Service must concentrate on getting trees sold and cut even if this means postponing or cancelling programs designed to help hikers and others use the national forests, according to the latest White House budget guidance

This Nixon administration philosophy runs through an 85-page report entitled "Financial Planning Advice," which the U.S. Forest Service has sent to its field offices around the country.

John R. McGuire, chief of the U.S. Forest Service, said the document represents his implementation of what the White House Office of Management and Budget wants his agency to do in fiscal 1974.

McGuire, while stopping short of disavowing the directive, said "it is unfortunate that the country is facing inflation and thus cannot do more for natural resources." He added that the budget does not include "everything we would like to do."

The book of guidance will further fuel the current controversy over how much the Forest Service should get to manage the national forests and who should receive top priority in using them.

"In light of the current high demand for timber products for housing, etc.," states the guidance document, "and the national economic importance of increased lumber and plywood production, you must make every effort to insure that these levels are met or exceeded."

The levels refer to the amount of timber that can be sold and cut from the national forests. Secretary of Agriculture Earl L. Butz and John T. Dunlop, director of the President's Cost of Living Council, announced on May 29 that 10 per cent more timber would be sold off in calendar 1973 than contemplated originally for fiscal 1973. The amount for that year and fiscal 1974 is 11.8 billion board feet, more than can safely be cut in the opinion of some conservationists, but not in the view of McGuire.

McGuire has said however, that the Forest Service is way behind schedule in replanting the forests—a pacing item for determining how many trees can be cut down without reducing the yearly yield.

The guidance document stresses that in spending money, productive areas of the national forests should take precedence over the out-of-the-way places favored by hikers, birdwatchers, hunters and fishermen:

"Limit land-use planning to those areas where activity levels in the next five years will be greatest or where high-level commitments cannot be deferred . . . Fiscal 1974 general land use planning will be primarily concentrated on the largest timber producing forests and areas where it must be done in response to high impact developments (e.g., oil, gas or coal; transmission lines; etc.). Defer routine planning for less critical areas. . . .

"Planning for new recreation projects will not be done in FY 1974," the document continues. "Close high-cost, low-use facilities. Shift as much work as feasible to timber purchasers, states and counties, permittees or contractors . . ."

Further, the guidance book states, "recreation operation and maintenances costs will be reduced by giving consideration to closing up to 80 per cent of facilities for which standard level of operation and maintenance is estimated to cost more than $3 per visitor-day for campground and $6 per visitor-day for picnic, boating and swimming sites. Exceptions where justified can be made . . ."

In guidance which goes against the new trend for people to use parks and forests in the off-season to avoid crowds, the document states that U.S. forest facilities will be open a shorter time than usual in the off season in fiscal 1974.

In discussing roads and trails that run through the national forests, the budget guidance stated that any money saved in maintaining those routes "shall be reprogrammed to timber support activities."

This type of emphasis and the amount of money in the Nixon administration budget for the Forest Service is only part of the reason the service has suddenly become so controversial. Other reasons include the growing number of people who want to use the forests for recreation, the militancy of environmental groups who are suing the Forest Service over its tree-cutting practices in a number of places, and qualms among lawmakers about shipping U.S. logs to Japan at a time when timber supplies are limited.

FOREST SERVICE FIGHTS FOR LIFE

(By George C. Wilson)

The rancher turns his Cessna toward a big bare spot in the otherwise densely wooded mountainside of the Bitterroot National Forest outside of Missoula, Mont.

From the plane's back seat, the forester who used to manage the Bitterroot yells over the engine noise: "This is what we're fighting. There'll be nothing left of our forests if this keeps up."

The fight for the Bitterroot, it turns out, is part of a much larger battle—one that amounts to the biggest assault on the U.S. Forest Service since its founding 68 years ago.

And yet, like most other environmental issues, the battle is not a clear struggle between good and evil but an argument intensified by the difficulty of the choices.

Conservationists, fearing timber companies are about to cut down more than the national forest can stand, charge the U.S. Forest Service is derelict.

Politicians blame the Nixon administration for emphasizing lumber production at the expense of such other uses of the forest as hiking and fishing.

Timber companies, running short of wood from privately owned lands, chafe at the government's failure to grow more trees in the national forests.

And the Forest Service itself complains that it takes so long for a tree to grow that neither past Congresses nor administrations have been willing to take the long view and appropriate enough money for reforesting.

The feeling that time is finally running out makes for shrill debate.

"Unless Congress can stop (Agriculture Secretary Earl Butz) from overcutting the forests, there will be little timber left to manage," complains Guy Matthew (Brandy) Brandborg, the retired ranger who used to supervise the Bitterroot before the days of clear-cuttings.

Brandborg contends that clear-cutting—taking every tree, large and small, out of a designed area rather than selective cutting of mature timber—is killing his beloved Bitterroot and other national forests.

From the air, the Bitterroot does look like a forest wounded and scared because broad splotches of bare land left from clear-cutting. Brandborg served as guide that day in the Cessna flight in hopes of returning national forestry to more conservative harvesting techniques.

The protest movement he started back in his hometown of Hamilton, Mont., in 1969 has turned the Bitterroot into a national symbol of the way the Forest Service is managing the people's woodlands.

"What the once respected Forest Service let happen at the Bitterroot is appalling," scolds Sen. Lee Metcalf (D-Mont.), a ranking member of the Senate Interior Committee.

"They didn't know what they were doing," contends Ralph D. Hodges Jr., executive vice president of National Forest Products, in declaring that the Bitterroot logging was not done in a coordinated fashion.

"We went too much for the board in the past," concedes Richard Strong, a ranger still working in the Bitterroot out of the Forest Service's Hamilton office.

"This issue (the management of the national forests generally, not just the Bitterroot) is going to be around a lot longer than Watergate," warns Rep. Julia Butler Hansen (D-Wash.), chairman of the House Appropriations subcommittee which handles the Forest Service budget.

"If the administration impounds the extra money we voted this year for our forests," she said, "why, we have a lot of their pet ducks we can kill. We know people would rather pay for their forests than those bombs."

Stepping back from such debate, Richard Ayres, an environmental lawyer at the Natural Resources Defense Council, said that at the very least "all the fuss means we are approaching the limits of available timber," giving the questions about how, to what extent and for whom our forests should be cut a fresh sense of urgency.

These questions are being argued right now in a suit challenging the Forest Service's biggest sale of timber—more than 8.75

billion board feet from Tongass National Forest in Southeast Alaska.

The buyers, U.S. Plywood and Champion Papers Inc., intend to ship the timber to Japan. The Sierra Club protested that the area to be stripped of trees is bigger than Rhode Island.

In their U.S. District Court suit to stop the sale, the Sierra Club and the Sitka Conservation Society asserted that Congress never intended to put such a "grossly disproportionate emphasis" on timber production in setting aside forests for public use. They contended that the Forest Service in the Tongass sale violated the Multiple Use-Sustained Yield Act of 1960, which states that national forests are to be used not only for timber harvesting but for outdoor recreation, range, watershed, wildlife and fish as well.

"The Tongass has great resources of deer, bear and eagle, is rich in salmon, has magnificent hunting and scenic splendor and has streams vital to the watershed," the conservationists argued.

"Congress clearly did not intend to turn over 85 to 90 per cent of the area to the chain saw. . . . The Forest Service has plainly erred. It is using vast areas of the Tongass National Forest almost exclusively for a single use in derogation of other uses specified by Congress . . ."

The Forest Service, the plaintiffs charged, also violated the Organic Act of 1897 which set down ground rules for how trees should be harvested. They cited rules requiring trees to be marked for cutting. But, under the Tongass sale the buyers can cut down every tree out of designated areas—the so-called clear-cutting method which also is being contested in the Bitterroot and other national forests.

Further, the suit asserted that Congress set the forests aside for American citizens and that the Forest Service violated that directive by selling off trees that it knew were destined for Japan.

That suit—which has kept the Tongass from being cut since the Forest Service signed the sales contract with U.S. Plywood in 1968—has gone from the District Court in Anchorage, up to the Ninth U.S. Circuit Court of Appeals and is now back in District Court to assess evidence uncovered during the arguments.

New evidence against the Forest Service, according to Sierra Club lawyers, includes a study conducted for U.S. Plywood saying that the timber sale indeed would hurt the wildlife in the Tongass.

The Forest Service is also embroiled in a federal suit challenging its management—including clear-cutting—of the 1.6 million-acre Monongahela hardwood forest in West Virginia's Allegheny Mountains.

This suit has stopped timbering there pending a hearing on Aug. 15 before federal Judge Robert E. Maxwell of West Virginia's Northern District Court. The Izaak Walton League, Natural Resources Defense Council and Sierra Club are among the plaintiffs suing Butz and the Forest Service.

A broader suit against the Forest Service was filed in District Court here on July 6 by the Natural Resources Defense Council, Sierra Club and Wilderness Society. It challenged the right of the Forest Service to increase its sale of timber—as announced by the Nixon administration on May 29—by 1.1 billion board feet for fiscal 1974 without filing an environmental impact statement.

The plaintiffs charged in a press release that the increase was ordered by Butz "under intense pressure from the timber industry" and was "forced on the Forest Service with such short notice that proper sale planning to protect the quality of the national forests is virtually impossible . . ."

Beside fighting such court challenges, the Forest Service and its superiors in the administration are under attack in Congress. The Forest Service budget, its harvesting policies and log exports to Japan are among the issues in this second front.

"Funds added by Congress for Forest Service construction in fiscal year 1973 have been impounded and, almost without exception, proposed for different construction projects in fiscal year 1974," complained the House Appropriations Committee in adding $19 million to the $369 million budget recommended by President Nixon.

"The committee takes a dim view of these policies which fail to recognize that the priorities established by the Congress in the appropriations process are those of constitutional direction," it said in its report.

"It is time to stop and ponder what a nation without trees, water and natural beauty could be," the committee scolded. "Coupled with the necessity for fiscal restraints is also the mandate to be equally responsible to the future of this great nation."

Specifically, the committee complained that the Nixon administration has not spent enough money to replant the forests and produce maximum growth of trees. Also, the committee asserted that the budget cuts "have forced curtailment of recreation use of the national forests." It allocated the extra money appropriated to correct those shortcomings.

As for the extra money to handle timber sales resulting from increasing the number of boardfeet to be sold in fiscal 1974, the committee directed the administration to send Congress a request for supplemental funds and not dip into the extra $19 million voted for other purposes. The House passed the Forest Service bill overwhelmingly and sent it to the Senate where it is in committee.

The National Forest Products Association—the timber industry's trade group—disagrees with conservationists that clear-cutting is harmful to the national forests but agrees with them on the need to spend more money on reforestation. The association has supported higher budgets for the Forest Service.

But association spokesmen contend that their industry has to be assured of a constant supply of timber to operate efficiently. This is why, they said, that they have renewed their drive to get Congress to pass a bill assuring steady production of timber.

Sponsored this year by Sen. John J. Sparkman (D-Ala.), chairman of the Senate Housing Subcommittee, it calls for giving the Secretary of Agriculture a highway-type trust fund to manage the forests—including planting new trees. Up to $25 million a year from the fund—generated by lumber sales—could go to states or individuals to help them grow trees on their land. The bill declares it is the sense of Congress "that an orderly, substantial increase in the supply of timber is both possible and desirable in the years ahead."

The Sierra Club charges the bill (S. 1775) is designed "to cut as much wood as possible, as fast as possible with no regard for a sustained yield of timber or for other statutory uses of the forest. If the bill passes, the national forest lands will be overcut the same way that private timber lands have been . . ."

The beleaguered head of the U.S. Forest Service is a lanky, genial research specialist named John Richard McGuire. He concedes that the clear-cutting in the Bitterroot was overdone in an aesthetic sense because the spots carved out were too big; that his service is not reforesting nor providing as many recreational services as it would like to, and that there is indeed a lot of fire coming out of Congress nowadays about forestry practices.

But, on the other hand, he argues that clear-cutting is still a sound way to promote regrowth of the forest; that money shortages have forced the curtailment of reforestation and recreation service, and that the Forest Service is really caught in the crossfire as the White House and Congress wage their battle of the budget.

The national forests are not being overcut, he said in an interview. The fiscal 1974 plan to cut and sell 11.8 billion board feet of timber is well under the 13.6 billion board feet which the Forest Service reckons could be harvested without reducing the year-by-year yield.

"Basically," he said, "the idea is to cut no more than you grow," and the ratio is constantly re-examined.

As for former Bitterroot forest supervisor Brandborg, McGuire said he is one of those Forest Service alumni who feel "that any change from the way they managed it is not good."

Congress itself, McGuire said, discussing the shortage of funds for reforesting and recreation, "traditionally has been more liberal in appropriating funds for the timber program than for the wildlife and other programs."

Thus he said, the Forest Service has had to drain off its manpower to perform timber work Congress itself has loaded upon the rangers.

"We need a balanced program," McGuire said. "We need increased funding across the board—including more funding proportionately in the non-timber activities. This is what I say every year.

"We are far behind in things we ought to be doing." Part of the reason that neither Congress nor the administration has come through with the necessary money in the past, he said, "is that it always seems like one more year is not going to make that much difference. We've been out of kilter for at least a decade.

"The typical administration is going to look no farther ahead than the end of the administration. What I'm offering does not come for a long time ahead. So we've always had to get them (various administrations) to proceed on faith."

This year—given the environmental awareness and militancy in and out of Congress—just might be different.

PENSION REFORM

Mr. BEALL. Mr. President, the May and June issues of the Institute of Electrical and Electronics Engineers' magazine Spectrum contained articles by Mr. Richard Backe and Mr. Frank Cummings dealing with the need for pension reform and underscoring the unique pension problems of engineers.

Mr. Backe is the chairman of IEEE's Pension Committee and chairman of the joint pension committee of several engineering and scientific societies.

Mr. Cummings is a former Counsel to the Labor and Public Welfare Committee and helped draft the pension reform legislation while he was here. He presently is in private law practice.

I had the pleasure of participating in the first annual joint engineering society's legislative forum held in February 1972. Now that the Finance Committee has reached agreement on pension reform legislation, I am hopeful that the Senate will soon be taking favorable action on this matter.

While this legislation will not solve all of the problems of the engineers, and change in our tax laws or policies may be necessary for them, they are solidly behind the pension reform legislation.

Because of the interest of my colleagues in pension reform legislation, and the peculiar problems of our engineers, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

YOU AND YOUR PENSION

(By R. J. Backe and F. Cummings)

Judging by the returns from the questionnaire included in last November's *Spectrum*, pension reform is a major issue among EEs.

More than 1000 IEEE members took the time to answer the 44 questions and return the questionnaire. Hundreds were concerned enough to write additional comments. Some respondents attached probing analyses several pages long and raised questions that have already been answered in issues of *Spectrum* subsequent to the survey issue. Other comments were more terse; not all were complimentary (see box).

Several members decided that the questionnaire was not designed to yield a precise consensus—they were correct. Others indicated that the respondent population might not be a representative cross section of the Institute's membership—they may also be correct.

The more interesting conclusions derived from the questionnaire, although a potpourri of facts and educated guesses, have sufficient validity to give the IEEE's pension committee guidance and support for its position papers, which will be summarized in part 2 of this article next month. (See Table I for a summary of questionnaire replies.)

DO YOU HAVE A PENSION PLAN?

This reponse came as no surprise. Only 60 percent of workers in the United States are now covered by pension plans; however, engineers, other professionals, and trade unions have traditionally led the way in such fringe benefits.

PLAN FINANCING

Several points are of interest here. Over 38 percent of the respondents said that their companies paid the entire cost of the pension plan. (This is less than the 44 percent who made the same statement in the 1972 IEEE salary and benefit survey.) Correlations of various questions indicate that the participants in plans paid for fully by the company have the least knowledge of the degree of the company's contributions.

In participatory plans, the employee's knowledge of company contributions rose. And when the employer-employee contribution questions were correlated, it was obvious that matching money plans were common in the levels equal to or below 3 percent of salaries. More than one half of the people reporting up to 3 percent employee contribution also reported an employer contribution at the same level. (This comprised about 10 percent of the respondent group.)

TOTAL TIME TO VEST

The correlation of this survey with the 1972 salary and fringe benefit survey was again excellent. The latter survey reported 6, 10, and 23.5 percent in the first three vesting intervals shown in Table I. (It also showed that 22.5 percent could not vest at all prior to retirement.)

These data add to the evidence that the average plan available to engineers requires more than ten years to vest. Perhaps a future survey can more precisely determine exactly where in the 11- to 15-year span the *average* lies, as this is a critical factor in determining the average cost of earlier vested benefits.

The early responses on graduated vesting indicate that many plans provide for some vesting at intervals five years less than required for full vesting.

VESTING STATUS—ARE YOU VESTED?

The interpretation of these answers depends on whether you're an optimist or pessimist. If you consider that only fully vested engineers could move to a new job with little or no loss, then only one out of three engineers (31 percent) enjoys true mobility.

A related question on portability that was included in the survey should have been phrased better. Few engineers without full vesting have any chance of portability because TIAA/CREF plans are not available to them. As expected, the overwhelming majority of respondents indicated a lack of any kind of portability.

ELIGIBILITY IN TERMS OF SERVICE AND AGE

These answers also correlate with the prior survey data and with other national surveys. In most plans, eligibility requirements are becoming nominal—at least with respect to vesting times. However, if the average vesting interval is reduced to five years or less at some future time, the retention of even a one-year-eligibility waiting period will then increase effective vesting times by at least 20 percent. This may be a seemingly trivial conclusion, but it will have a marked cost impact if the plan participants have an annual turnover interval in the five- to six-year range.

WORK EXPERIENCE AND AVERAGE SERVICE

Data on service and experience, although not shown in Table I, correlate well with the 1972 salary and fringe benefit survey. The average respondent to the pension questionnaire has between 15 and 20 years' experience and has worked an average of seven years for each employer.

The respondent to the salary and fringe benefit survey has 17.6 years of experience, has worked for three employers, and has been with the most recent employer for 6.5 years.

Both surveys suggest that engineers work about five years for their first several employers, but increase their job tenure gradually as they pass the midcareer point.

TOTAL FORFEITED PENSION YEARS

Forfeited pension years was the key question in the survey. It is too bad that more elaborative detail was not required. Here it had been assumed that respondents claimed as forfeited those prior years of service not vested with any previous employer, whether or not a pension plan did indeed exist.

Only one-third of the respondents said they were fully vested. The median number of forfeited years as reported by the survey is slightly less than ten; however, the survey also indicates that the average engineer had only a little more than ten years' employment with former employers. This means that *virtually all prior service time was forfeited*. And, because the average engineer respondent has already worked 6.5 years with his present employer, he is due to change jobs and again forfeit his pension rights.

More details are needed about plan costs, partial vesting, patterns of service, and forfeitures. Nevertheless, the typical engineer fits the following pattern: between 15 and 20 years of service, an average of three employers, and an average service period of 5.9 years (salary and fringe benefit survey). Because the average vesting period is 10 to 15 years, this means *no pension*.

IEEE REACTS

What can IEEE do? Long before results of the salary survey and pension questionnaire were tabulated, leaders of the IEEE began to tackle pension problems through various action groups.

In early 1972, a professional activities pilot experiment group (PAPE) was formed in Washington, D.C., chaired by Sajjad Durrani. PAPE was directed to evaluate the ways to influence favorably legislation and Government regulations affecting the engineer's professional life.

In the area of pension reform, PAPE was successful in making significant inputs to the 92nd Congress. They sponsored a successful pension reform rally in Washington attended by hundreds of engineers and Government leaders. In addition, good rapport was established with the Senate Labor Committee, testimony was given on two reform bills (S. 3598 and H.R. 12272), and a pension reform amendment (Title IV was added to a major technology bill (S. 32)).

Now the members of IEEE have afforded its leaders more freedom of action by voting for the Constitutional Amendment and charter revision. The work of the *ad hoc* PAPE group, therefore, has been taken over by a permanent entity—the Government Relations Committee (GRC) of the United States Activities Committee (USAC). Chaired by Harris O. Wood and comprised of five IEEE members from industry and Government, this group is aggressively seeking legislation to correct problems affecting the engineering profession.

It should be noted that most priority action goals established by GRC relate directly to civil and social problems that confront the nation as a whole. GRC proposes to deal with these through the proper, effective, and economical application of technology. Notwithstanding these other activities, private pension plan reform—a goal not uniquely desired by or beneficial to engineers—stands high on the action list of GRC for 1973.

EMPLOYMENT PRACTICES AND PENSION COMMITTEES

During most of 1972, there were other active *ad hoc* groups dealing directly with the pension problem.

These groups have also been replaced by permanent committees under USAC. The Employment Practices Committee, chaired by Leopold Neumann, will continue to address all areas of professional concern to engineers. They have already agreed upon a first set of employer-employee guidelines to be used as a continuing dialogue with industry leaders. These guidelines include minimum standards for retirement programs.

A Pension Committee has been established under R. J. Backe, which will: (1) perform liaison work with the Government, industry leaders, and IEEE members; (2) design suitable legislative or regulatory revisions dealing with pensions; (3) assist in devising IEEE's pension plan; (4) represent IEEE in cooperative efforts with all other engineering groups.

In discharging its duties, the pension group will rely on the services of the aforementioned USAC subcommittees as well as the Survey Committee of USAC and IEEE's New York and Washington staff experts.

IEEE STAFF ACCOMPLISHMENTS

No report of the Institute's activities in this area would be complete without summarizing the work of IEEE's staff. The past (and future) accomplishments of USAC depended on the continuity of action, enthusiasm, and hard work of Ralph Clark of the Washington Office and Joe Casey from New York Headquarters. These gentlemen enjoy more frequent contact with members than most volunteers, an important function in the feedback loop. Mr. Clark is the presently designated staff member for GRC and the Pension Committee. Mr. Casey is on the Employment Practices Committee.

Donald G. Fink, general manager of the

Institute, has taken a very personal interest in member's pension problems. Through his efforts, the actuarial firm, Martin A. Segal & Son, was retained by IEEE in July 1972. They were requested to design the best "after tax-dollars" pension plan that could be made available to members under current legislation and IRS regulations.

Many aspects of such a plan have been resolved and it is hoped that details can be announced by the fall of 1973. It is anticipated that this plan would offer annuity and trust options and have other features members have requested.

Although this effort was started last year, the planners had sufficient foresight to make provision for future favorable Government rulings as well as for reciprocal agreements with other professional engineering and scientific societies.

THE PROGRAM FOR 1973

Before the end of 1973, the Institute will spend considerable time and money in pursuit of the following:

Nonqualified IEEE plan

If various approvals are received, both inside and outside of the Institute, IEEE will offer its members a means to participate in a retirement plan run by IEEE in a manner similar to that used by the Institute's highly successful insurance programs.

This will provide a significant service to many members, particularly those who cannot wait. However, contributions to this plan will be taxed in the year they are earned—and it is *unlikely* that many employers could or would contribute to such a *nonqualified plan*. (The significance of a nonqualified plan is discussed next month.)

General legislative reforms

We will again testify in favor of pension reform bills that will improve the security of members funds in present company-run plans and that will provide plan members with more details of plan features, investment management, and income forecasts. The Williams, Javits, Beall bill (S. 4) cosponsored by a total 41 senators, is such a bill. Additionally, we will endeavor to make sure that pension reform *for engineers* does not stop with passage of S. 4 or the equivalent since this bill does not begin to address the engineers' vesting problem.

Private investment options

The Institute will actively support passage of the Keogh Amendment bills. These will permit us to make personal contributions to privately run plans with before-tax dollars.

Such bills would permit one either to: make tax-deferred contributions to those employee-run plans that permit such participation; or to make tax-deferred contributions to privately run plans—such as the proposed IEEE plan.

Treasury rulings

IEEE has applied for and will continue to seek ruling from the Treasury Department that would effectively direct IRS to treat engineers' pension plans the same as those of teachers, airline pilots, and plumbers. Without permititng *any* discrimination in favor of highly paid employees (that's us, believe it or not), the desired ruling would permit IEEE to set up a plan for its members (and possibly for other engineers and professional scientists) to which employees could contribute tax-exempt dollars.

Procurement regulations

The Institute will again support any changes in Government procurement regulations that would recognize the engineers' unique pension-forfeiture problem. Title IV of S. 32, introduced by Sen. Kennedy in both the 92nd and 93rd Congress, would do this. Such changes would prevent overhead rebates to the Government (reversionary credits) or reduction in plan costs to the employer when engineers terminate prior to vesting and thereby forfeit pension rights.

Joint technical society-industry management dialogs

IEEE has already been in conference with a number of societies to build up further momentum in a drive for reform. Before this year is out, IEEE expects that at least five to ten technical societies, representing well over 500,000 individuals, will be routinely cooperating in joint testimony and background dialogues with Congressional staff groups.

Of equal importance, IEEE will contact industry groups to secure by negotiation what may not be attainable through legislation. In this context, negotiation must be understood to mean nonbinding agreements of understanding between management officials of engineering employers and technical society representatives. Such agreements, based on professional ethics of the employee and the honor of the employer, will be discussed at the "Pheasant Rerun" conference on May 7–9. Pension reform will be the subject of the panel.

A qualified IEEE plan

Immediately upon obtaining a favorable Treasury ruling (or enabling legislation), IEEE will set up a plan to which "before-tax" (tax-deferred) dollars can be contributed. The plan will be offered to employers, and to individuals, if the regulations permit.

The law and the loopholes

The core of many of our pension problems lies within the United States' complex tax structure—a morass that repels most engineers and other laymen. Next month we shall examine the engineer's pension problems in terms of the present tax code.

READERS' RETORT

"The current lack of pension rights for electrical engineers is a problem for many of us. Contrast our problems with electricians or plumbers. The construction unions have a better deal for the vast majority of their membership!"

"My main gripe about my pension plan is that although I am now vested, I would lose all surivor benefit options if I am terminated before retirement."

"I think that early retirement is an important subject—since many employers of engineering personnel seem to be adopting the excuse of technological obsolescence to terminate older and higher paid engineers for whom their pension contributions would be larger. At the moment I am covered by the TIAA pension plan, which I find quite superior."

"I have little faith that IEEE will effectively advocate portable pension plans since Directors are mainly employers and hence have a conflict of interest."

"A more achievable solution would be for the Federal government to allow tax-priviledged individual pension plans similar to those allowed for self-employed individuals."

". . . Rather than trying to force pension funds to protect the unthinking professional (there's a contradiction), I think the technical societies could better direct themselves to education of their members . . . [on] and how to manage their own income. And why shouldn't the technical societies, which already are acting in group travel and insurance, provide an 'investing fund' capability . . . ?"

"Our company has an office and staff to administer the retirement plan. This staff did not know *and could find out* the answers to the questions I have answered 'don't know.' Since I am more interested in remaining in an employed status than I am in uncovering the details of our company's retirement plan, I am not planning any militancy of my own."

"Total engineering experience, 25 years; average years per employer, three; longest time with one employer, eight; total forfeited years, all."

"As president of a small company, I have been unable to find a bank, insurance company, or other comparable organization offering a portable pension plan available to our employees. Of much more interest to me than Congressional meddling, is assistance in finding one or two such plans, particularly plans that offer tax breaks to offset the disadvantages of inflation. As an individual, I happen to have a limited equity with TIAA, but this plan is not available to our employees. I know of nothing wrong with the TIAA/CREF setup, other than the fact that it is available only to a limited group."

". . . questions concerning my employer's pension plan, in general, were answered by the company. The representative claimed that the employer contribution is set by the Internal Revenue Service regulations. I suspect that the company contributes as much as it can deduct from its corporate taxes, and no more. The area of pension portability is of prime interest to me and I am anxious for the U.S. Government to enact some new legislation in this area."

I. READER RESPONSE TO PENSION QUESTIONNAIRE IN PERCENT OF TOTAL RESPONDENT GROUP[1]

Do you have a pension plan?	Yes: 88	No: 12				
Plan financing: Percent of salary paid into pension fund	0	0 to 3	3 to 8	8+	Don't know	No answer
By employee	38	22	23	2	2	2.
By employer	4	12	16	12	42	5.
Total time to vest: Time in years	0	1 to 5	6 to 10	10+	Don't know	
	4	8	25	46	6	
Vesting status: Are you vested?	Fully	Partially	Not at all	Don't know	No answer	
	31	17	37	2	2	
Eligibility: Years' service	0 to 1	2 to 4	5+	Don't know	No answer	
	61	15	7	2	2	
Age	21	21 to 30	30	Don't know	No answer	
	37	13	16	7	14	
Total forfeited pension years	0 to 2	3 to 5	6 to 8	9 to 10	10+	No answer.
	20	13	11	16	18	10.

[1] Percentages do not add up to 100 for responses after the first question because the 12 percent "no plan" answers have not been included. Also, rounding off has introduced errors of 1 or 2 percentage points in the totals.

PENSIONS: THE BIG LOTTERY

(By R. J. Backe and Frank Cummings)

Private pension plans are an important source of retirement income for engineers in the U.S. Although resources such as Government-sponsored Social Security, personal savings, and investments are widely available, the income they provide is often inadequate unless supplemented by a private pension plan.

Such private plans are motivated by the individual's need for personal security as well as competitive and social pressures on companies and other groups. However, the operational driving force behind most of them lies in tax advantages offered by the U.S. Internal Revenue Service (IRS). In fact, such plans usually offer little of special value to employers or employees unless they have been *qualified* by the IRS, for such qualification brings highly significant tax advantages.

ADVANTAGES OF IRS QUALIFICATION

For the employer, IRS qualification means tax deductions on his contributions to the plan. Like salary costs, such contributions are fully tax-deductible as business expenses, even though the money goes into a trust fund rather than into employees' pockets.

For the employee, there is no income tax to pay on his portion of the fund, until he actually receives retirement money. And when he is retired, the former employee is likely to be in a lower income tax bracket.

For the private retirement fund itself, all income—such as dividends, interest, and capital gains—is tax-exempt as long as the money remains in the fund.

PENSIONS WITH IMMEDIATE VESTING

In earlier articles on pension (*IEEE Spectrum*, November 1972, pp. 62–68, and May 1973, pp. 55–58), the key importance of "vesting" was emphasized. The articles pointed out that most private pension plans do not give the employee a fully vested interest until he has been in the plan for 10 to 20 years. Thus, each employee hopes he can outlast his fellows and collect a pension. The unpleasant fact is that many employees and most engineers never do collect. Currently, each pension winner reaps the benefits of payments made for five to ten not-so-lucky former employees.

If private pension plans provided immediate vesting, an engineer moving from job to job could accumulate his pension piecemeal instead of losing his pension rights with each job change.

The picture seems clear: engineers' pension needs would be best met by private pension plans, qualified by the IRS and offering immediate vesting. Why then don't employers offer such plans?

THE EMPLOYER'S DILEMMA

Employer resistance to pension plans with immediate vesting is based on a prospect of increased costs with no additional offsetting tax benefits. This same factor makes immediate vesting a rarity in union-run plans.

If new pension laws required immediate vesting for all existing pension plans, the annual cost increase needed to maintain present benefit levels could come to 25 percent or more of current corporate profits. This prospect could very well cause a large number of employers to lose their incentive to have any plan at all.

Pay your own way

Although immediate vesting can double the overall cost of operation of a pension plan, the increase for any individual employee would be small. In fact, the average engineer could purchase immediate vesting by using only a part of his normal salary increases for pension purposes over a period of a few years.

Salary money invested in plans run by employers or by a professional society like IEEE would seem to offer a practical way for engineers to get immediate vesting but, because of the IRS rules on "discrimination," which will be explained later in this article, such plans do not meet current tax-qualification requirements.

Many large corporations have set up special pension plans for key executives tailored to meet the mutual interests of the employer and his executives. Such plans often include immediate vesting, but they do not qualify for IRS tax bonuses, and the employer gets no deduction for pension money until it is actually given to the employee on retirement.

For small groups of executives, many corporations seem willing to forgo immediate tax deductions. But, to be responsive to their stockholders' financial interests, these corporations cannot incur such expenses for their entire work force, and that is substantially what the tax code demands if a plan is to be qualified by the IRS.

IRS "DISCRIMINATION" RULES

The Internal Revenue Code, administered by the IRS, contains guidelines designed to prevent pension-plan "discrimination" in favor of "higher paid employees." These are the guidelines that keep special executive pension plans from qualifying for tax bonuses. And these same guidelines present a frustrating barrier to tax qualification for any special pension provisions for engineers, unless *all* employees share similar benefits. For instance, any "engineers-only" pension plan that features immediate vesting would be ruled by the IRS as discriminatory against other employees who have nonimmediate vesting plans, *even if* the IRS were shown that the employer's contributions to each plan (the plan for the engineers, and the plan for everyone else) were proportionately the same.

A retirement plan set up by IEEE would be subject to similar treatment: Let us suppose that IEEE were to establish a retirement fund for its members, providing immediate vesting. Even if the plan itself were to receive preliminary IRS qualification, employers could not make tax-deductible contributions to the fund unless all their non-IEEE employees were covered by similar plans with immediate vesting. Even if the employer's contributions to the IEEE fund were identical to those he formerly paid into his own qualified plan, the IRS would hold that the arrangement was "discriminatory," and the entire plan would be disqualified.

Despite the apparent egalitarian intent of the Internal Revenue Code pension guidelines, their effect is to discriminate *against* engineers. For instance, trade unions that do not represent highly paid employees are free to set up the same tax-qualified, immediate-vesting plans that seems to be denied to the IEEE by the Code.

LOOPHOLES IN THE TAX RULES

A major hope for providing IEEE members with the pensions they need lies in working out an exception to the IRS rules that would allow IRS qualification to a multiemployer engineer-only plan.

The fact that such exceptions have worked for other groups leads us to expect that such a solution may also be found for engineers.

For instance, under present law, self-employed persons are allowed tax advantages for their own contributions to their own pension plans, which an employee of a corporation would not be allowed. Under the so-called Keogh law, a doctor, a lawyer, or even a self-employed engineer can set up his own pension plan, get a tax deduction for self-contributions of as much as $2500 a year, and thus solve much of his retirement problem. However, this arrangement offers no help to engineers who are employees unless proposed legislation extending this option is passed.

Professors are certainly more highly paid than other employees of colleges, yet they have their own special portable pension plan—TIAA-CREF—that offers immediate vesting and still is qualified by the IRS. The rulings and special section of the Internal Revenue Code that make TIAA-CREF viable were written many years ago and are not applicable to nonacademic engineers' current pension problems. But there is another precedent that seems to promise more direct application to the special pension needs of engineers who are employees.

The Hall case

Many years ago, a taxpayer took the position that higher paid workers could have a separate plan, with different vesting, as long as the contribution rate was not "discriminatory." The Treasury Department refused to agree, the taxpayer took the case to Court *and won*, in the United States Court of Appeals. The Government does not believe itself bound by this precedent and continues to disagree with it. Recent discussions, however, raise the hope that before long it may be possible to persuade the Treasury to relent, *at least in some cases*, and hopefully in ours.

IEEE STRATEGY AND PROSPECTS

With Treasury Department permission for an engineers-only plan, IEEE could go to employers and say: "Here is a plan. You can contribute to it. It will not cost you substantially more than you are now paying for pensions for your engineers in your own plan. It will have the advantage that you can offer engineers who join your company a plan with immediate vesting and the opportunity to accumulate, in a single pension plan, credits and contributions from all their employers." To that end, IEEE is working with the Treasury to try to effect a reappraisal of the Hall case, permitting an engineers-only multiemployer pension plan.

At the same time, we are testifying before Congress in hopes of establishing a national minimum vesting standard within the next five to ten years. And we are also testifying in behalf of broader permission in the Internal Revenue Code for tax-deductible contributions, not just by self-employed professionals, but by corporate employees as well.

Furthermore, we are supporting congressional efforts to enact a provision (which passed the Senate last year) to require, as part of Federal procurement regulations, that there be early vesting in pension plans that receive cost-reimbursible treatment under Government contracts.

To back all this up, we intend to develop pension plans that will meet these proposed standards and take advantage of any new tax rulings that we may be able to obtain.

WHAT YOU CAN DO

Whether you agree or disagree with this approach, you should let your views be heard. Write to Forum, *IEEE Spectrum*, 345 East 47 Street, New York, N.Y. 10017, or to the IEEE Pension Committee at the same address. This feedback is essential in designing a program to meet all the members' needs.

Equally important, let your Congressman know about your viewpoint on this important subject.

The Institute cannot and will not advise you on what position you as an individual should take. Your own circumstances will dictate your response to any legislative proposals. But as a U.S. citizen, you have both the right and the duty to participate in the governmental process. Hearings on key bills are being held right now. You should act at once if you want to exercise your rights effectively.

Your Post Office can give you the name and address of your U.S. Representatives and Senators. Your phone company can connect you to Western Union, which has a special rate for telegrams to the Congress. A minute of your time today may mean better vesting for you tomorrow.

WILL YOU BE A LOSER IN THE BIG PENSION LOTTERY?

Four out of five engineers never get any benefits from pension plans. Here is a checklist of questions an engineer should ask, to determine whether a pension plan is of real benefit to him.

Entry. At what point (age and years of service) does an employee become a "participant" in the pension plan? In other words, when do his credited years of service begin to accumulate? Many plans require that the employee reach a given age and be employed for an initial period of time before any years begin to count toward his pension.

Vesting. At what point do your earned pension credits "vest"? That is, how many years of participation (once you become a "participant" in the plan) do you need to qualify for a nonforfeitable pension—a benefit you don't lose if you change jobs, whether voluntarily or involuntarily. Note: even if you are "vested," that doesn't mean you get the pension when you vest. But it does mean that, if you live to retirement age (usually 65), you are guaranteed the pension at that time, even if you have changed jobs in the meantime.

Funding. How well is the plan "funded?" Is there a trust fund or an insurance contract holding the money to pay for your vested pension? If the employer went out of business today, or next year, or a few years from now, or if he "terminated" the plan, would there be enough money in the plan to pay off everything that is owed?

Termination. Does the employer have the unilateral right to terminate the plan at any time? If he has that right, is there enough money in the fund to pay off, even after termination of the plan?

Forfeiture. Even if there is "vesting," does the plan forfeit your pension under some circumstances? For instance, would you lose your pension credits if you went to work for a competitor, were fired for "cause," or quit voluntarily or without notice?

Benefits. What would the benefit level be, if you vested? What is an average pension? Are there early retirement features? Are there survivorship benefits for your spouse and children?

Service. How is "credited service" under the plan computed? Is there a provision for forfeiture of credited service if there is a "break in service"? Suppose you work enough years to vest, but the years are not all consecutive, do you still get your pension?

Implementation. When you vest, or when you leave your employer, do you get a certificate showing what your rights are? Do you know how to apply for benefits when you are 65, and to whom? Remember, it may be a long time before you retire, and the company may have moved, or changed, or disappeared in the meantime.

Feasibility. Most important is the key question: How many years does it take to vest? Is there any reasonable likelihood that you will work that many years? If you can't answer the last question with a "yes," then you don't really have retirement security under your present plan.

FOR FURTHER READING

Nader, Ralph, and Blackwell, Keete, You and Your Pension. New York: Grossman, 1973.

Winkelvoss, Howard, "Analysis of the cost of vesting in pension plans," U.S. Dept. of Labor, 1972.

Employee Benefits Fact Book 1972. New York: Martin E. Segal, 1972.

HIGH DRUG PRICES: A CASE STUDY

Mr. NELSON. Mr. President, on previous occasions I have presented to the Senate considerable evidence that the drug industry charges higher prices for their products in the United States than in other countries. The drug firms do not deny this fact. They charge what the traffic will bear, and they have been getting away with it. Today, I would like to describe a different situation which demonstrates in another way how the American people are being exploited because the law in this country permits that to be done. Although we have a good system to protect the public against the marketing of unsafe and ineffective drugs, we do not have any mechanism to protect the public against excessively high prices. Let us illustrate.

Sault St. Marie is a small city of 15,136 population in northern Michigan. Three miles away—a 10-minute ride over a toll bridge is its sister city of Sault St. Marie in Canada, population 81,290. In many respects these two cities are similar: Both are industrial areas, manufacturing machine parts, concrete products, and especially electricity and power. In one respect, however, the residents on the Canadian side are much better off, for if they are sick, they can buy drugs for much less than their counterparts on the U.S. side.

Orinase, discovered by the Hoechst Co. in Germany, is a drug used by people who have diabetes. Those who need it take it day after day over a long period of time. It is marketed in the United States by the Upjohn Co. The price to the druggist in Michigan is $82.68 for 1,000 0.5-milligram capsules. It is available to the druggist on the Canadian side under the brand name of Oramide for $6.63, less than one-twelfth as much.

Hydrodiuril is one of the most widely prescribed drugs in this country and is used by the elderly to relieve their high blood pressure. It is the kind of drug that people use for a long time. It is manufactured in this country by Merck, Sharp & Dohme and is available to druggists in this country for $75 for 1,000 50-milligram capsules. The same product in the same quantity is available to the druggist in Canada at $4.63 under the name Urozide.

Butazolidin is an anti-inflammatory drug manufactured in the United States by a subsidiary of the Swiss firm Ciba-Geigy. It is used for arthritis; it ranks among the top 100 drugs prescribed in this country; and it is used mostly by those in the medicare age group. In this country it is available to the druggist at $67.28 for 1,000 100-milligram tablets. In Canada it is available to the druggist at $3.67 under the trade name Phenbutazone. In other words, a resident on this side of the border would have to pay perhaps 18 times more for this drug than their neighbors on the Canadian side.

Furadantin is an anti-infective widely used for urinary tract infections. Manufactured by Eaton Laboratories, it is available to the druggist in Michigan at $161.88 for 1,000 100-milligram tablets. Three miles away in Canada this same drug is available to the druggist for $9.45 or about one-seventeenth as much under the brand name of Furatine.

The following table shows the vast differences in prices paid by the elderly of widely used drugs available in the United States and Canada. The U.S. prices, taken from the 1973 red book, are prices paid by the druggists in the United States, bought either directly from the manufacturer or through wholesalers. The Canadian prices are taken from the spring 1973 catalog of the Canadian subsidiary of the Internation Chemical & Nuclear Corp., an American corporation based in Irvine, Calif. No effort was made to select the lowest Canadian price.

I ask unanimous consent that the table referred to be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF UNITED STATES AND CANADIAN BRAND NAME WHOLESALE DRUG PRICES

U.S. brand name, company, dosage form and quantity	Price to pharmacies: In United States	Price to pharmacies: In Canada	Brand name of drug marketed by ICN[1] in Canada	Official (generic) name and therapeutic category
Furadantin (Eaton):				
50 mg:				
100's	$10.26	$1.02	Furantine	Nitrofurantoin (anti-infective).
1,000's	80.94	5.30		
100 mg:				
100's	20.52	1.58		
1,000's	161.88	9.45		
Orinase (Upjohn):				
0.5 gm:				
500's	41.87	4.17	Oramide	Tolbutamide (anti-diabetic).
1,000's	82.68	6.63		
Hydrodiuril (Merck):				
25 mg:				
100's	3.80	.75	Urozide	Hydrochloro thiazide (diuretic).
1,000's	$36.50	$3.61		
50 mg:				
100's	6.00	.90		
1,000's	57.00	4.63		
Butazolidin (Geigy):				
100 mg:				
100's	7.08	.88	Phenbutazone	Phenylbutazone (anti-inflammatory anti-rheumatic).
1,000's	67.28	3.67		
Librium (Roche):				
25 mg: 500's	47.49	8.89	Corax	Chlorodiazepoxide (tranquilizer).
Valium (Roche):				
2 mg:				
100's	6.70	1.86	E-Pam	Diazepam (tranquilizer).
1,000's	67.53	15.94		

Footnotes at end of table.

U.S. brand name, company, dosage form and quantity	Price to pharmacies: In United States	Price to pharmacies: In Canada	Brand name of drug marketed by ICN[1] in Canada	Official (generic) name and therapeutic category
Valium (Roche):				
5 mg:				
100's	$7.25	$2.54		
1,000's	81.49	22.06		
10 mg:				
100's	11.10	4.08		
1,000's	111.63	36.00		
Darvon (Lilly):				
65 mg:				
100's	7.02	2.22	PRO-65	Propoxyphene (analgesic).
1,000's	74.20	15.00		
Darvon Compound (Lilly):				
65 mg:				
100's	7.32	2.45	PROCO-65	Propoxyphene plus APC (analgesic).
500's	34.77	11.00		
1,000's	77.04	17.78		
Terramycin (Pfizer):				
250 mg:				
100's	20.48	3.89	X-TET	Oxytetracycline (antibiotic).
500's	95.13	15.51		
Stelazine (Smith, Kline & French):				
5 mg:				
100's	10.25	2.10	Terfluzine	Trifluoperazine (tranquilizer).
1,000's	92.50	16.83		
10 mg:				
100's	12.80	2.95		
1,000's	115.00	23.10		
Diabinese (Pfizer): 100 mg: 500's.	23.79	8.56	Chloromide	Chlorpropamide (antidiabetic).
Premarin (Ayerst):				
1.25 mg:				
100's	6.91	3.45	Conjugated estrogens.	Estrogen.
1,000's	65.53	29.25		
Thorazine (Smith, Kline & French):				
25 mg:				
100's	3.80	1.05	Chlorprom	Chlorpromazine (tranquilizer).
1,000's	36.00	6.11		
50 mg:				
100's	4.40	1.25		
1,000's	41.75	8.33		
100 mg:				
100's	5.40	1.83		
1,000's	51.25	11.67		
Hygroton (USV Pharm. Co.):				
50 mg:				
100's	$6.72	$3.00	Uridon	Chlorthalidone (oral antihypertensive diuretic).
500's	33.60	13.93		
100 mg:				
100's	7.99	4.12		
500's	39.95	18.91		
Decadron (Merck):				
0.50 mg: 100's	10.35	49.8	Dexasone	Dexamethasone (corticosteroid).
0.75 mg: 100's	12.94	7.87		
Tofranil (Geigy):				
10 mg:				
100's	5.81	1.62	Impril	Imipramine (antidepressant).
1,000's	55.21	9.12		
25 mg.:				
100's	9.07	2.22		
1,000's	86.18	15.20		
50 mg:				
100's	15.45	3.47		
1,000's	146.75	24.70		
Ritalin (Ciba):				
10 mg:				
100's	6.24	3.13	Methidate	HCL Methyl-phenidate (mood elevator).
500's	30.89	14.31		
20 mg:				
100's	.77	5.47		
500's	[2] 42.50	25.49		
Eavil (Merck):				
10 g:				
100's	4.28	1.39	Levate	Amitriptvline (anti-depressant).
1,000's	40.62	8.08		
25 mg:				
100's	8.55	2.55		
1,000's	81.23	15.67		
50 mg:				
100's	15.20	4.45		
1,000's	144.29	30.00		
Flagyl (Searle):				
250 mg:				
100's	13.98	5.11	Trikacide	Metronidazole (anti-infective).
1,000's	122.00	27.56		
Mellaril (Sandoz):				
10 mg:				
100's	5.94	2.08	Thioril	Thioridazin (tranquilizer).
1,000's	56.40	15.27		
25 mg:				
100's	8.16	3.25		
1,000's	77.52	23.15		
50 mg:				
100's	8.94	4.86		
1,000's	84.96	36.10		

[1] International Chemical and Nuclear Corporation.

[2] Half of 1,000 price of $85.01.

Mr. NELSON. Mr. President, why are these widely used drugs unavailable in this country at the same prices as in Canada?

Why should the people in the United States pay up to 18 times more for the same drug than our Canadian neighbors?

The American company, International Chemical & Nuclear, would be glad to sell the drugs in the United States at the same prices they sell in Canada. The fact is that this company at this time cannot sell these drugs in the United States at any price.

The explanation is that Canada has a compulsory licensing system for drug patents to protect the public against price gouging. If the Canadian Government finds that prices of drugs are too high as a result of a patent monopoly, it has the authority to direct the patent holder to license others on a reasonable royalty basis. This provides some competition as well as a fair return to the patent holder on the research and other developmental costs with respect to the licensed drug.

Both Canada and the United States have the mechanism to protect the public against unsafe and ineffective drugs. It is in the capability of the two countries to protect their citizens against excessively high prices where the contrast is striking. Canada has a patent licensing system to protect its people against excessively high prices. The U.S. Government, on the other hand, has no way to protect its people against such exploitation. The United States is the only industrial country in the world which has set no limits to the degree of exploitation of its citizens in matters pertaining to health. It is to rectify this deficiency that early this year I introduced a bill to protect the public against monopolistic excesses. The bill authorizes the Federal Trade Commission, upon the certification and with the advice of the Surgeon General of the Public Health Service, to require that a drug patent become available for reasonable royalty licensing on nondiscriminatory terms under certain conditions. The procedures set forth in the proposed legislation will assure due process of law and orderly and expeditious enforcement and administration of the act.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The PRESIDING OFFICER (Mr. HUDDLESTON). Under the previous order, the Senate will resume the consideration of the unfinished business, S. 372, with a vote to occur at no later than 3:30 p.m. today.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of sec. 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. PASTORE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 55, line 3, strike "(f)" and insert in lieu thereof "(f)(1)".

On page 55, between lines 11 and 12, insert the following:

"(2) Any person making an aggregate expenditure in excess of $1,000 to purchase services or products shall, for purposes of this subsection, be held and considered to be making such expenditure on behalf of any candidate the election of whom would be influenced favorably by the use of such products or services. No person shall make any charge for services or products furnished to a person described in the preceding sentence unless that candidate (or a person specifically authorized by that candidate in writing to do so) certified in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitation applicable to that candidate under this section."

Mr. PASTORE. Mr. President, this is the amendment that I offered last Saturday. I explained it then, and I shall explain it once again in a very concise way.

Inadvertently, there is an inadequacy as to a particular situation in the bill that has been reported by the Committee on Rules and Administration. This does not have to do with disclosure, but actually deals with the limitation on expenditures. The bill as reported defines when a person acts on behalf of a candidate. That is a person must either be an agent of, or authorized by the candidate.

The situation arises as to what we do in the case of a person who acts independently and without being an agent and without being authorized. Can an entrepreneur go into a State and if he is not an agent of or authorized by a candidate expend an unlimited amount of money on behalf of the candidate?

As the bill is now drawn, the answer would be in the affirmative. Here we have gone so far as limiting the amount that an individual can give to a committee. He can give $3,000 for the Presidency. He can give $3,000 for any candidate for the Senate.

I think that a person could go into a community for any reason whatsoever, feeling that he would like to give a lot more than $3,000 for a particular candidate, either to elect him or to defeat him. He would go into that State, or if he were a resident, he could still do it, without consulting with the candidate, without getting his permission to be an agent, or without getting his permission to be authorized. He could go to a newspaper and buy $50,000 worth of advertisements. This would have to be disclosed in due time, as indicated by the Senator from Kentucky. However, insofar as the limitation on the expenditure of money on behalf of the candidate would have none.

In order to overcome that, what this amendment actually does is to say that that person can spend up to $1,000, but beyond that $1,000, in any event he would have to get the certification of one of the candidates. Therefore, if he came into the State of Rhode Island, for example, and he was against the Democratic candidate and two or three other candidates were running against that Democratic candidate, he would be free to spend up to $1,000, whatever amount he wants. However, beyond the $1,000, he would have to be certified by one of the opposing candidates.

An argument has been raised concerning the question of the constitutionality of this amendment. The constitutional question was raised insofar as an overall ceiling is concerned as to a candidate. We are not trying to limit the right of expression. We are not trying to do that at all. All we are trying to do is to limit the amount of expenditures. And I believe that it is constitutional. I believe that is in the public interest.

In this amendment what we have done is to accept subsection (f) on page 55. I would hope that the committee would accept this amendment and in that way clear up some of the very glaring inadequacies in that paragraph.

Mr. CANNON. Mr. President, I yield myself 3 minutes to ask the Senator from Rhode Island some questions.

The Senator would make it so that any person, including a committee, could not spend more than the aggregate amount or the total amount of $1,000 without being under the provision.

Mr. PASTORE. The Senator is correct.

Mr. CANNON. So that no person could make any expenditure unless they certify that it would not exceed the candidate's limit. If the amount were in excess of $1,000, by going back to subsection (f), it would make it so that they would have to have the approval of the candidate or else they could not proceed to spend the money in their behalf.

Mr. PASTORE. The Senator is correct. In other words, the committee bill takes care of an individual acting as an agent or an individual who is authorized. However, it does not take care of that individual who is not an agent or is not authorized, but acts independently.

Mr. CANNON. There is one other provision that I am concerned about. I do not know that we have taken care of it in the bill, and I do not know how to do it. That is where we have a person who is spending money against a particular candidate.

Mr. PASTORE. This would apply in that case, because then he would have to go to the opposition to get authorization.

Mr. CANNON. We could presume that if it was being spent against one candidate, it was being spent on behalf of the opposition to that candidate.

Mr. PASTORE. The Senator is correct. And he would have to have somebody's authorization. And if he did not get authorization, he would have to stop at $1,000.

Mr. CANNON. If it were a primary and someone attempted to spend money against a candidate—and we might have one or a dozen candidates in that primary—what situation would we have in that case?

Mr. PASTORE. In that case, he would be stopped at a thousand dollars unless he could go on and get a certification from the remaining 11—that is, not all of them, but any one of them.

Mr. CANNON. Does the Senator think there might be a constitutional problem under the free speech provision, where a person might want to come in and he does not care about any of the other 10 candidates, but he says, "I want to spend a lot of money, if I can, to defeat Joe Doakes, because I do not like him"?

Mr. PASTORE. That is right; and this amendment governs that. I repeat again, the constitutional question here is this:

Giving and spending money do not constitute acts of verbal communication. In the words of Professor Paul Freund of Harvard Law School, "We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels."

Mr. CANNON. So the Senator feels this would meet the constitutional test?

Mr. PASTORE. This would meet the constitutionality issue. The whole bill would.

Mr. CANNON. And would meet all situations where he might be spending, whether or not he wants to back a particular candidate?

Mr. PASTORE. Yes.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CANNON. I yield to the Senator from Louisiana.

Mr. LONG. Can the Senator explain to me the current status of this amendment in this respect? It seems to me that it might be desirable to seek to prohibit someone from spending more than a thousand dollars trying to help a candidate or trying to hurt some other candidate.

Mr. PASTORE. That is right.

Mr. LONG. But I do not think that a person who does not want to have that thousand dollars spent in his behalf ought to be penalized because he was powerless to prevent someone from spending it on his behalf.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. CANNON. I yield myself 2 additional minutes.

Mr. LONG. From spending something he did not want to have spent.

Mr. PASTORE. If the Senator will yield, that is where they would get into the constitutional question, because then there would be a shutoff.

We have to realize that a person can speak. We have to realize that a person can indulge and engage and participate in a campaign. All we are saying is, "We are not stopping you from being against A or B or C, and you can say anything you want any time you want, but, now, when it comes to spending money to accomplish your purpose, when you get to the point of a thousand dollars, then you are getting to the question of whether or not you are defeating the public purpose, because you are going beyond the principle of the ceiling." Therefore, in that particular case, he would have to get the certification of someone, and that someone would have to give him permission to act within his ceiling.

Mr. LONG. Well, that might meet the problem. It just seems to be that the approach should be, if this type of thing is to be pursued, to make it unlawful for

one who wanted to defeat candidate X, for example——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. CANNON. Two minutes more.

Mr. LONG. To make it unlawful for that person to spend more than a thousand dollars in trying to bring about the defeat of candidate X, unless he had the consent of candidate Y to do that.

Mr. PASTORE. That is what my amendment does. That is exactly the purpose of the amendment.

Mr. CANNON. It has been pointed out that it is covered, that no person may make any charge for the services, and cannot spend more than that amount in the aggregate unless he has the consent of the candidate; or, if he wants to spend more than that amount against Joe Doakes, then he has to get the consent of the other candidate, whoever he may be. Otherwise, they would not comply with the provisions of the law for certification.

Mr. PASTORE. Another point I would like to make is that they can hold all the rallies they want and do everything they want to, provided they do not spend over the thousand dollars unless it is certified by one of the candidates. That is the whole purpose of it. As I said before, it is not to limit expression or to close a person's mouth; it is merely to close his pocketbook in the public interest, in order to preserve the sanctity and purity of the elective process.

Mr. LONG. Does not that leave open this possibility, that candidate X and candidate Y are running, and a man wants to defeat candidate X, so therefore he prevails upon candidate Z to enter the race, and prevails on candidate Z to let him spend all this money saying what a bad candidate candidate X is? Does not that possibility remain open?

Mr. PASTORE. Of course it does, and that is always possible even today. If he does it as a ruse or as a subterfuge, that is his privilege as an American. No one can stop that.

Mr. CANNON. And if he gave it to a person who wanted to spend it against candidate X, and had it charged against his overall limit, even though he were not a serious candidate, he could do that, as long as he did not exceed the thousand dollar limit, or did not exceed the $3,000 limit which we have in here.

Mr. LONG. Mr. President, I congratulate the Senator from Rhode Island. I think he has improved the amendment, and I suppose the manager of the bill is now willing to support it.

Mr. CANNON. Personally, I have not checked with my minority colleague, but my present inclination, as manager of the bill, is to accept the amendment, which I think is a good one.

Mr. STEVENS. Mr. President, I would like to ask the Senator from Rhode Island a question.

Mr. COOK. I yield the Senator 5 minutes for that purpose.

Mr. STEVENS. I am sympathetic with what the Senator from Rhode Island is trying to do. I am wondering about the mechanism he has stated. What happens if someone comes to me or my campaign manager and makes a suggestion, for instance, that they put up a large billboard—which I do not use in campaigns, and always reject them—and he has a nice plan to put up billboards, and we say, "No, we do not want that," and the man says, "Well, I have a right to campaign if I want to, and I am going to put them up."

If those billboards cost more than a thousand dollars, somewhere along the line someone, whether it is the painter, the furnisher of the wood products, or the laborer who puts them up, is going to reach the limit of a thousand dollars, under my assumption. When is it, under the amendment, that someone has to come and ask us for permission before they bill?

Mr. PASTORE. Mr. President, let me point up the case. First of all, the Senator says, this person who comes to you is for you?

Mr. STEVENS. That is right.

Mr. PASTORE. But you do not want it?

Mr. STEVENS. That is right.

Mr. PASTORE. But he says, "We will do it anyway"?

Mr. STEVENS. We could get nasty and say he wants to bug my opponents, and I do not want him to do that.

Mr. PASTORE. In this case, he could not go over the $1,000, because surely your opponent is not going to charge it up to his own account. In other words, he would have to go to your opponent and get permission to go over the $1,000.

Mr. STEVENS. No; I am talking about someone for me, and he is going to buy lumber and paint and put them up. Who is it that is going to make the decision when they reach the $1,000, the person who has the idea?

Mr. PASTORE. No; when that person goes to get that billboard, and it is over $1,000, he has to have someone provide certification over the $1,000. He cannot put up a $1,500 billboard without someone's certification. All he can do, in the aggregate, is spend $1,000.

I do not see why there is any difficulty in the example the Senator gave at all, because it would be helpful to him. He does not want this person to do it.

Mr. STEVENS. I do not want to spend a dime for billboards in my State, but under the amendment it would be charged to me.

Mr. PASTORE. No, it would not be charged to the Senator at all. He is independent up to $1,000.

Mr. STEVENS. The amendment says that if anyone makes an expenditure in excess of a thousand dollars to purchase services or products, he is going to be held to act in my behalf if it would influence favorably my candidacy.

Mr. PASTORE. That is right.

Mr. COOK. Now, wait——

Mr. PASTORE. Now, wait a minute.

Mr. COOK. May I say to the Senator from Rhode Island, I do not believe that is what the amendment says. It is my understanding that the amendment says that if he spends or intends to spend over a thousand dollars, he has to have the candidate's permission. If he goes ahead and spends over a thousand dollars and does not have the candidate's permission, he falls under the criminal provisions of the bill, not the candidate but the individual.

Mr. STEVENS. I have no objection to the Senator from Rhode Island's second sentence.

Mr. COOK. Is my understanding correct?

Mr. PASTORE. No, no. As a matter of fact, this is what it says:

> Any person making an aggregate expenditure in excess of $1,000 to purchase services or products shall, for purposes of this subsection, be held and considered to be making such expenditure on behalf of any candidate the election of whom would be influenced favorably by the use of such products or services.

Now, you go on to say, and this is covered in your answer:

> No person shall make any charge for services or products furnished to a person described in the preceding sentence unless that candidate (or a person specifically authorized by that candidate in writing to do so) . . .

In other words, if you go to the Providence Journal and independently put in an ad of $1,500, they will say, "We cannot do it without certification."

Mr. COOK. But, if they do it, then the individual, not the candidate, is responsible for those actions.

Mr. PASTORE. Including the newspaper, would be responsible.

Mr. COOK. Right.

Mr. PASTORE. That is right, and subject to penal action.

Mr. COOK. I am wondering whether the Senator, because of the problem we have on this, obviously, and because of the real situation we present in relation to this—and I have not had the same things the Senator has—I am wondering whether he would consider modifying his amendment. I am not asking for the inclusion of any new language, but to take out the words,

> . . . (or a person specifically authorized by that candidate in writing to do so).

The reason I say that is that we now have got an accounting procedure that is rather difficult—extremely difficult—as a matter of fact, on the percentage of campaign expenditures that will have to be spent.

In making up the records and seeing to it that the appropriate records get filed, what bothers me is, I am afraid, in this kind of situation, this is something the candidate himself should be responsible for waiving, because it directly affects the specific amounts ground into the bill by reason of the 5 and 10 cent figure.

Mr. PASTORE. We have already done it. We have done it in section (F) on page 55. We have already done it.

Mr. COOK. I am not happy with that one either.

Mr. PASTORE. I know the Senator is not, but he can take it to conference and it can be ironed out for clarification. But the principle should be left in there. If you change this amendment, you have to change your amendment.

Mr. STEVENS. If the Senator from Kentucky will continue——

Mr. COOK. Yes.

Mr. STEVENS. As I understand the first part of the amendment, the first

sentence says that if someone spends more than a thousand dollars and it would favorably affect my election, it will be charged to my limitation, right?

Mr. PASTORE. If he does, he has to come and get your certification.

Mr. STEVENS. That is not my question. The first sentence says, if he spends more than $1,000 it will be charged against my limitation.

Mr. COOK. No—no, sir.

Mr. PASTORE. No, no.

Mr. STEVENS. This is something done on my behalf.

Mr. PASTORE. Not unless you agree to it. It is only presumed to be in your behalf. Then you would have to agree to it and then it makes it in your behalf. If you do not agree to it, you destroy the presumption.

Mr. STEVENS. In the second sentence, if I refuse, or if any specifically authorized person refuses to consent to the expenditure of the funds, refuses to certify that it would not exceed my expenditure limitation, and he goes ahead and spends $2,000, am I charged with anything?

Mr. PASTORE. No. If you have not given him the certification then he is responsible under the penal section, and so is the person who gives him the services and the product. He is chargeable.

Mr. STEVENS. Then, to make the record clear, if a candidate refuses the certification, or his authorized representative under this portion—this is the new subsection (c), I take it, the same section we were talking about the other day—no part of it will be charged against the candidate who does not approve the expenditure.

Mr. PASTORE. That is correct.

Mr. STEVENS. Then can the Senator from Rhode Island tell me when it would be charged against the candidate?

Mr. PASTORE. When you certify it. When you certify it. If you certify it. For instance, let us assume that a friend of mine who happens to be a very wealthy man—and I do not know that many persons who are that wealthy—but a wealthy friend says to me, "Pastore, I cannot give you more than $3,000 for your campaign." You see?—He does not even come to me. He makes it known that he wants to act independently of me. You see? Now in this case here, if he spends that money, over a thousand dollars, he has got to get my certification and it is charged up to my overall ceiling.

Mr. STEVENS. The Senator from Rhode Island may have found the solution. I hope that he has. I want to make certain. Let me recount the experience I had when a labor union put out a special edition of its magazine. In that magazine was a 2-page recitation of the things the Senator from Alaska had done for that labor union. If that insertion in their magazine costs more than $1,000, it will be charged against me only if I certify that it would not exceed my limitation?

Mr. PASTORE. That is covered here in another section.

Mr. STEVENS. That is this section?

Mr. PASTORE. No. That is in another section, where these magazines are not considered an expenditure. That is in another section. That is in another section. But that labor union, it cannot go out to a circulated newspaper throughout the State and go above the $1,000 without your consent. But an internal periodical, that is part of that thing, they can do anything they want. That is in the law now. That is in the law. They have not waived that.

Mr. STEVENS. I see.

Mr. PASTORE. That is under a section of the old law.

Mr. STEVENS. I opposed the amendment of the Senator from Rhode Island the other day. I want to state that I would not oppose it now, because it is my understanding there could never be a time when this section would cause any candidate to have any such expenditures charged against his expenditure limitation under this new act unless either he or the person authorized by him had certified in writing that the expenditure would not exceed the limitation; is that correct?

Mr. PASTORE. That is correct.

Mr. STEVENS. Under those circumstances, that it could never be charged against a candidate without his consent, I do not object.

Mr. PASTORE. Without the certification, right.

Mr. COOK. Mr. President, may I say to the Senator from Alaska that the big change in here is the absolute necessity to change, as a result of the discussion and the colloquy last Saturday, the fact that there is not an absolute presumption. In other words, the absolute presumption of liability on the part of the candidate has been removed.

Mr. PASTORE. That is right.

Mr. COOK. We have now made it absolute that if in fact this occurs by reason of the new language submitted by the Senator from Rhode Island, if the aggregate is in excess of $1,000, that individual, that group, or that committee, must seek to obtain permission of the candidate or his designated agents to go over that amount. If he does, and goes over that amount, as I read that same literal sentence, and not having received permission from the candidate or his designated agent, then it is a matter of that individual or that committee and the source of the advertising being subject to the penalties under the terms of this act.

Mr. STEVENS. May I say to the Senator from Kentucky that my interpretation of the language is contrary to what he has just said. My interpretation of what the Senator from Rhode Island said is consistent with what you said. Under this language a person could spend $2,500, and that would be chargeable against my limitation, but no person could charge him for anything in excess of a thousand dollars. That is what the language says.

Mr. PASTORE. No, no, no. Will the Senator please read the amendment?

Mr. STEVENS. There is nothing in the language that says that if I do not consent, the charge set forth in the first sentence is not charged against my expenditure, because it says it shall be presumed that the only thing prohibited in this sentence is another person making a charge for that service which is already presumed by the first sentence to be on my behalf.

So I think that the Senator from Rhode Island has clarified what his intent is but the Senator's reading of the language would say that any expenditure over the thousand dollars is charged to my account, but if someone made expenditures of a thousand dollars, the person who rendered the $1,000 charge or that portion of the thousand dollars——

Mr. PASTORE. If the Senator will look on page 55(f) of the bill and read it, section (f) has to do with the person who is an agent or is authorized——

Mr. STEVENS. Right.

Mr. PASTORE. I am talking in the same language now, only I am applying it to a case where the person acts independently. In that case, I am saying you can act independently and spend $1,000. Beyond that, you have got to come under section (f), which is already in the bill.

Mr. STEVENS. But if he spent over $1,000, it is chargeable to me on the first sentence, but the person charging for the service cannot collect under the second sentence.

Mr. PASTORE. No, no; that is not it at all.

The point is this: No one can render these services and no one can produce these products without a certification if it is in the aggregate over a thousand dollars.

Mr. STEVENS. If the Senator from Rhode Island wants to put that in there, that no person shall render such services or make any charge——

Mr. PASTORE. It is in there.

Mr. STEVENS. It is not in there. It says you cannot charge for them. It does not say you cannot render services. It says that I am chargeable, as a candidate, with anything in excess of a thousand dollars. You can render services, but you cannot collect for them.

Mr. PASTORE. Look at page 55. How does subsection (f) read? That is in the bill.

No person shall make any charge for services or products knowingly furnished to—

I am doing the same thing.

Mr. STEVENS. But the Senator from Rhode Island is defining what is on behalf of a candidate.

Mr. PASTORE. And so does the other subsection. I refer the Senator to page 53:

"(3) For purposes of this subsection, an expenditure shall be held and considered to have been made on behalf of a candidate if it was made by—

"(A) an agent of the candidate for the purposes of making any campaign expenditure, or

"(B) any person authorized or requested by the candidate to make expenditures on his behalf."

Mr. STEVENS. The Senator's objective could be achieved by saying, "No person shall render or make any charge for any service or product described in the first sentence." Has not the Senator done it in the language? He has done it in what he has said.

Mr. PASTORE. If the Senator changes the other section and they accept his

amendment, I will copy his amendment, too. I am copying the same portion.

Mr. COOK. Is the Senator from Alaska saying that in the Senator from Rhode Island's amendment, where it reads "No person shall make any charge," he wishes to insert "No person shall render or make"?

Mr. STEVENS. Any charge for any service that would exceed that.

For example, if someone prints a full page ad the newspaper does not get paid for it, I would still be charged with it, under the first sentence.

Mr. PASTORE. If the managers of the bill are willing to change paragraph (f) as it is now, they can change mine. Change it the same way. I do not care how the Senator puts it. I think it is explicit enough. If the word "render" seems to be the proper word to put in there and that would clarify it, I would be perfectly willing to amend it; but they both have to correspond. Otherwise, it would seem that we were talking about two different things.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. MAGNUSON. A question occurs to me that has never been answered. Suppose the candidate knew nothing about the ad, where would the liability be?

Mr. PASTORE. The liability is this: When the man goes to buy the ad, the minute he says, "I want an ad," they are going to ask, "Have you been certified by the candidate?"

He is going to say, "No. I don't want to have anything to do with the candidate. I am acting on my own."

Then they say, "We can only accept your ad up to a thousand dollars."

If he says, "But I want a $1,500 ad," they say, "If you want a $1,500 ad, you have to get a certificate."

Why did I do this? Let me explain why. Under the present law, we have limited what anybody can give to a Presidential candidate or to a Senatorial candidate to the sum of $3,000.

I do not want to mention any names, but here is a very rich man who wants to do more for the President than just give him $3,000. What does he do. He does not go to see the President. He does not go to see the Republican or the Democratic Chairman of the National Committee. He wants to act independently.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PASTORE. I yield myself 2 minutes.

He goes to the 50 States and gets himself a public relations outfit. He says, "I want you to put $50,000 worth of ads in every newspaper in every State in the Union, to re-elect So and So or to elect So and So." He is acting absolutely independently. Under the present bill, he can do that, and that is what I am trying to cure.

The fact is that without my amendment, the ceiling is rendered a mockery and is rendered innocuous, because all anyone need do is act independently and he can spend any amount of money he wishes.

Then what happens to the $3,000 we are talking about? It is made to look ridiculous. That is why I propose this amendment: in order to give to the candidate himself, control over his own campaign. That is the purpose of it.

Mr. MAGNUSON. Mr. President, my question still has not been answered.

Mr. PASTORE. What is it?

Mr. MAGNUSON. Suppose this is done: Suppose in a weekly newspaper the people know that a candidate is coming to town. Suppose three persons get together and take out a four-page ad. Somebody is coming to town—our candidate—and they do that without the candidate's knowing about it. Who is liable? The candidate?

Mr. PASTORE. If it goes over a thousand dollars, and nobody knows about that ad in the newspaper but the people who take out the ad, they are responsible.

Mr. MAGNUSON. Not the candidate?

Mr. PASTORE. Not the candidate.

Mr. COOK. Mr. President, I yield myself such time as I may require, and I yield now to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I have one question to ask the Senator from Rhode Island. I think his amendment addresses itself to the very real problem that was enunciated by him and other Senators on Saturday.

Under the amendment, we put limitations on what an individual and committees can do, what they can expend, what amounts they may contribute for and on behalf of a candidate, or in some cases for the benefit of particular candidates.

But no reference is made to what limitations might be placed on an officer of that organization, whose only objective is to defeat a candidate, and might make expenditures or a great effort merely against one candidate without taking positive action against another candidate who may be in the same race.

If a person undertakes that kind of activity and reaches a thousand dollars, must he be certified by some candidate?

Mr. PASTORE. By somebody; that is correct.

Mr. HUDDLESTON. Unless he becomes certified by some candidate.

Mr. PASTORE. Then the candidate comes under the restriction.

Mr. HUDDLESTON. My other question is: Does the Senator's amendment as written relate to a particular section of the bill or throughout the bill?

Mr. PASTORE. It would. This comes under the section that has to do with the limitation on expenditures. Even in spending a thousand dollars, the individual has to disclose it. We are not talking about disclosure, but we are talking about the limitation on expenditures. That is true. It goes right through the bill.

Mr. COOK. This is the point where we will determine the constitutional question.

Mr. PASTORE. That is correct.

Mr. COOK. I do not think there is any question about it. I do not think we can face it any other way. The circumstance would be when an individual wants to expend some money in excess of a thousand dollars; and if the amendment of the Senator from Rhode Island is adopted, when the person is campaigning for an individual, I think the constitutional point is raised, and I think then is when we make the determination under the first amendment whether we have the right to legislate.

Mr. PASTORE. Whether it is in violation of the Constitution—I personally doubt it—I subscribe to the idea that what we are here governing is more or less an expenditure in the public interest, of the democratic process, as against the right of a man to speak. We are not impinging upon that at all. He can do all the talking he wants to.

Mr. HUDDLESTON. There is language in the bill saying "influencing elections."

Mr. PASTORE. One way or another, I have to use the word "influencing" because there have been instances, as Senators know, where every day we and others become more or less advocates of a certain issue. To certain people that may be an unpopular issue. They may not agree with the position a Senator has taken. So they come into your State and they invade your State. They are not campaigning for your opponent but against you. It is more or less a vindictive thing. I am not stopping those people from coming in. All I am saying is that here is the candidate who is being attacked, and he is limited under the law. What is the limit on this person who comes into the State under those circumstances?

Mr. HUDDLESTON. I think the Senator has answered my question.

Mr. CANNON. Did the Senator amend the amendment to state "aggregate"?

Mr. PASTORE. Yes. Aggregate is in the present measure.

Mr. CANNON. How about "render or?"

Mr. PASTORE. I modify my amendment by adding "render or make."

Mr. COOK. Mr. President, will it be in order for the Senator to add a line in his amendment? May I suggest to the Senator from Rhode Island that for the purpose of clarity so that we can clear this up, that he also put in there between the words "shall" and "make" the words "render or."

Mr. PASTORE. "Render or make."

Mr. COOK. Then, we can take care of both situations.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, may I inquire whether or not the Senator's amendment has, after the words "making an" the word "aggregate"? Also, halfway down I wish to ask if it has these words: "no person shall render or make"?

Is that the way the amendment was modified?

The PRESIDING OFFICER. The Senator is correct.

Mr. CANNON. Then, I am prepared to yield back the balance of my time.

Mr. COOK. Mr. President, I yield myself 30 seconds on the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COOK. Mr. President, I am go-

ing to agree to the acceptance of this amendment, but I would want to repeat again that the first amendment does specifically say "prohibiting free exercise thereof; or abridging the freedom of speech." We have to remember the problems that we have gone into in this regard, and relative to the colloquy between my colleague from Kentucky and the Senator from Rhode Island I think we have pointed out that problem.

Mr. PASTORE. That is correct, and that goes into the history of the bill.

Mr. President, I ask that the amendment be read in toto as it is at the desk.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

On page 55, line 3, between lines 11 and 12 insert the following:

"(2) Any person making an aggregate expenditure in excess of $1,000 to purchase services or products shall, for purposes of this subsection, be held and considered to be making such expenditure on behalf of any candidate the election of whom would be influenced favorably by the use of such products or services. No person shall render or make any charge for services or products furnished to a person described in the preceding sentence unless that candidate (or a person specifically authorized by that candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitation applicable to that candidate under this section."

Mr. PASTORE. I yield back my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

Pursuant to Public Law 89–794, I have the honor to transmit herewith the Sixth Annual Report of the National Advisory Council on Economic Opportunity.

RICHARD NIXON.

THE WHITE HOUSE, *July 30, 1973.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 3867) to amend the act terminating Federal supervision over the Klamath Indian Tribe by providing for Federal acquisition of that part of the tribal lands described herein, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8760) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCFALL, Mr. YATES, Mr. STEED, Mrs. HANSEN of Washington, Mr. BOLAND, Mr. MAHON, Mr. CONTE, Mr. MINSHALL of Ohio, Mr. EDWARDS of Alabama, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes; that the House receded from its disagreement to the amendments of the Senate Nos. 15 and 16 to the bill, and concurred therein.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice-Presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. CANNON. Mr. President, I propose an amendment on page 55, line 3, after the words "No person shall" insert the words "render or."

That simply makes subsection (f) conform to the language we have just adopted in the amendment of the Senator from Rhode Island.

I am prepared to yield back the remainder of my time.

Mr. COOK. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following new section:

SEC. —. (a) Any candidate of a political party in a general election for the office of a Member of Congress who, at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and each Member of Congress, each officer and employee of the United States (including any member of a uniformed service) who is compensated at a rate in excess of $25,000 per annum, any individual occupying the position of an officer or employee of the United States who performs duties of the type generally performed by an individual occupying grade GS–16 of the General Schedule or any higher grade or position (as determined by the Federal Election Commission regardless of the rate of compensation of such individual), the President, and the Vice President shall file annually, with the Commission a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from his spouse or any member of his immediate family) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the amount of each liability owed by him, or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $1,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $1,000; and

(5) any purchase or sale, other than the purchase or sale of his personal residence, of real property of any interest therein by him or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000.

(b) Reports required by this section (other than reports so required by candidates or political parties) shall be filed not later than May 15 of each year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last

day he occupies such office or position, or on such later date, not more than three months after such last day, as the Commission may prescribe.

(c) Reports required by this section shall be in such form and detail as the Commission may prescribe. The Commission may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

(d) Any person who willfully fails to file a report required by this section, or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

(e) All reports filed under this section shall be maintained by the Commission as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been President, Vice President, a Member of Congress, an officer or employee of the United States, or a member of a uniformed service, during any calendar year if he served in any such position for more than six months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2).

(4) The term "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(5) The term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate.

(6) The term "officer" has the same meaning as in section 2104 of title 5, United States Code.

(7) The term "employee" has the same meaning as in section 2105 of such title.

(8) The term "uniformed service" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the Commissioned corps of the National Oceanic and Atmospheric Administration.

(9) The term "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouses of such persons.

(h) Section 554 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) All written communications and memorandums stating the circumstances, source, and substance of all oral communications made to the agency, or any officer or employee thereof, with respect to any case which is subject to the provisions of this section by any person who is not an officer or employee of the agency shall be made a part of the public record of such case. This subsection shall not apply to communications to any officer, employee, or agent of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case."

(i) The first report required under this section shall be due on the 15th day of May occurring at least thirty days after the date of enactment.

(j) Effective on the day after the date of enactment of this Act—

(1) section 304(f) of the Federal Election Campaign Act of 1971 is repealed;

(2) section 6(f) of this Act is amended—

(A) by striking out the paragraph designation "(1)", and

(B) by striking out paragraph (2) of such section;

(3) section 306(c)(1) of the Federal Election Campaign Act of 1971 is amended by striking out "(a)—(e)"; and

(4) section 315 of the Federal Election Campaign Act of 1971 is amended—

(A) by striking out of subsections (a) and (b) the phrase "(other than section 304(f))" wherever it appears; and

(B) by striking out subsection (c).

Any action taken under any provision of law repealed or struck out by this subsection shall have no force or effect on or after such day.

Mr. CANNON. Mr. President, the purpose of this amendment is to promote public confidence in the Federal Government. In order to cultivate confidence, it is necessary to let the citizens know what is going on in the Government that represents them. It is widely believed that Americans are being denied information which, if openly shared, would help to restore trust in elected officials and in the Government itself.

The public disclosure of income from sources other than one's government salary, or of transactions in stocks, bonds, or other securities, is almost nonexistent. The executive branch has a Presidential Executive order which is more of an administrative directive than a disclosure measure. The Federal courts subscribe to cannons of ethics but do not require any reporting of financial or business activities. In the Congress, each body has a "code of ethics" but those codes call for public reporting only with respect to contributions, gifts, or honorariums. Reports of outside income, activities, and holdings are filed on a confidential basis and are not open to the public.

If the principle of disclosure is to be honored, it should be observed by all officers and employees in policymaking positions in every branch, department or agency of the Government. And, the provisions of any disclosure provision should apply equally and uniformly to all—not to some officers and employees.

This is where my amendment differs from the action taken a day or two ago.

My amendment would apply equally to everyone who is compensated by the U.S. Government at an annual rate in excess of $25,000, or who performs duties of a kind generally assigned to an individual holding grade GS–16 or higher in the general schedule. In other words, the intent of this disclosure amendment is to reach every officer or employee of the U.S. Government who holds a policymaking position of the executive, or legislative, or judicial branches, from the President and the Vice President, and the Supreme Court and the Congress, down to the lowest civil servant falling within the compensation or grade levels provided in the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I have no objection to the amendment. We have discussed it at length last week. We now have an all inclusive proviso. I have no objection to the amendment.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 59, after line 9 insert the following:

"(f) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate."

On page 59, line 10, change "(f)" to "(g)".

Mr. CLARK. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CLARK. Mr. President, this amendment is designed to clarify and reinforce the intentions of the Senate with regard to the earmarking of funds to a particular candidate through the conduit of a political committee. I understand from previous debate, and from discussion with the distinguished Senator from Nevada, that the intent of the committee was to treat earmarked funds as a contribution by the donor to the candidate and covered by the limits set in this bill. In my judgment there were two troublesome problems in the bill. We have just closed one with the amendment of the distinguished Senator from Rhode Island. I address myself to the other.

This amendment spells that out in no uncertain terms, by adding a new subsection to section 615:

For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

During the debate Friday on the amendment of the distinguished Senator from Illinois (Mr. STEVENSON) regarding the exemption of party committees from contribution limits, a number of my colleagues expressed great concern over the problem of earmarking funds through those committees. That concern is certainly justified and my amendment is designed to alleviate it. The provision would explicitly state that if a person or organization channels funds through an intermediary body to a candidate, those funds will count toward that per-

son's contribution limit of $3,000 to that candidate.

I have no doubt that circumvention of the law, for one who is so inclined, will still be difficult to detect. But it is my hope that such an explicit statement limiting the earmarking of funds would help deter potential violators.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. In our consideration of the bill, we considered this very subject, and it was the interpretation of the committee that under the committee language earmarking would not be permitted unless it were charged to the limits of the candidate.

However, as the Senator has pointed out, this language would make it absolutely clear; and in light of the fact that it is the committee's intent and it was so intended in the bill, I would certainly not object to the amendment. However, I would raise the point and make it clear in the legislative history that if a person gives $3,000 to a candidate, this does not preclude a contribution to a national committee or one of the senatorial campaign committees, provided there was no earmarking of the funds, even though some of those funds might eventually find their way back to a particular candidate. Is that the Senator's understanding?

Mr. CLARK. Yes, that is my understanding. I thank the Senator from Nevada.

Mr. CANNON. Based on that understanding, I am prepared to accept the amendment.

Mr. COOK. Mr. President, I accept the amendment. I yield back my time.

Mr. CANNON. I yield back my time.

Mr. CLARK. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MATHIAS. Mr. President, I call up my amendment No. 422.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 422 is as follows:

TITLE

This title may be cited as the "Overseas Citizens Voting Rights Act of 1973".

CONGRESSIONAL FINDINGS AND DECLARATIONS

SEC. 1. (a) The Congress hereby finds that in the case of United States citizens domiciled or otherwise residing outside the United States, the imposition and application of a State or local residency or domicile requirement as a precondition to voting in Federal elections and the lack of sufficient opportunities for absentee registration and balloting in such elections—

(1) denies or abridges the inherent constitutional right of citizens to vote in Federal elections;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) denies or abridges the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) has the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(b) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens residing overseas and to enable such citizens to better obtain the enjoyment of such rights, it is necessary—

(1) to abolish completely for citizens residing overseas the domicile and residence requirements as preconditions to voting in Federal elections, and

(2) to establish nationwide uniform standards relating to absentee registration and absentee balloting by such citizens in Federal elections.

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, or Resident Commissioner of the Commonwealth of Puerto Rico;

(2) "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, but does not include American Samoa, the Canal Zone, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) A "citizen residing overseas" means a citizen of the United States who is domiciled, or otherwise residing outside the United States.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 3. (a) No citizen residing overseas shall be denied the right to register for, and to vote by an absentee ballot in any State or election district in any Federal election solely because at the time of such election he is not domiciled or otherwise residing in such State or district and does not have a place of abode or other address in such State or district if—

(1) he last voted or last registered to vote in such State or district, or if he did not so register or vote, was last domiciled in, such State or district prior to his departure from the United States;

(2) he has complied with the requirements concerning the casting of absentee ballots applicable in such State or district (other than any requirement which is inconsistent with this Act); and

(3) he is qualified to vote in such State or district but for his failure to maintain residence, domicile, or place of abode in such State or district; and

(4) has not registered to vote and is not voting in any other State or election district or territory or possession of the United States.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 4. (a) (1) Each State shall provide by law for the registration or other means of qualification of all citizens residing overseas and entitled to vote in a Federal election in such State pursuant to section 3(a) who apply, not later than thirty days immediately prior to any such election, to vote in such election.

(2) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing overseas who are entitled to vote in such State pursuant to section 3(a), and if required by State law have registered or otherwise qualified to vote under section 4(a)(1); and who have submitted properly completed applications for such ballots no later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election. In the case of any such properly completed application for an absentee ballot received by a State or election district, the appropriate election official of such State or district shall as promptly as possible, in any event no later than (i) seven days after receipt of such a properly completed application, or (ii) five days after the date the absentee ballots for such election have become available to such official, whichever date is later, mail the following by airmail to such citizen:

(A) an absentee ballot,

(B) instructions concerning voting procedures, and

(C) an airmail envelope for the mailing of such ballot free of United States postage.

(b) (1) In the case of a citizen residing overseas, a State or election district may accept as an application for an absentee ballot to vote in a Federal election (and as an application for registration to vote in such election, if registration is required by such State or district) a duly executed overseas citizen Federal election postcard in the form prescribed by paragraph (2).

(2) The form of the overseas citizen Federal election postcard referred to in paragraph (1) shall be as follows:

(A) The card shall be nine and one-half inches by four and one-eighth inches in size.

(B) Upon one side, perpendicular to the long dimension of the card there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT FOR FEDERAL ELECTIONS

State or Commonwealth of _____
(Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(PRESIDENTIAL) (CONGRESSIONAL)
(General) (Primary)* (Special) election
(Strike out inapplicable words)

(2) *If a ballot is requested for a primary election, print your political party affiliation in this box:

(If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, and am qualified to register and vote in the above State in Presidential and Congressional elections, even though I am presently residing outside the above State and the United States (defined not to include the Territories and Possessions of the United States) and such State may not be my current domicile, and—

a. I last voted or was registered to vote in the above State

b. The above State was my last _____

domicile even though such State may not be my current domicile

(4) I was born on _____
(Day) (Month) (Year)

(5) Until _____, my home (not
(Month) (Year)
military) residence in above State was _____ in the country
(Street and number or rural route, etc.)
or parish of _____
The voting precinct or election district for this residence is _____
(Enter if known)

(6) Remarks: _____

(7) Mail my ballot to the following address: _____

(8) I am NOT requesting a ballot from any other State, Territory or Possession of the United States, and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

(9) _____
(Signature of person requesting ballot)

(10) _____
(Full name, typed or printed)

(11) Subscribed and sworn to before me on _____
(Day, month, and year)

_____ _____
(Signature of official administering oath) (Typed or printed name of official administering oath)

_____
(Title or rank, service number (if any), and organization of administering official)

INSTRUCTIONS

A. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.

B. Address card to proper State official.

C. Mail card as soon as your State will accept your application.

D. NO postage is required for the card if deposited with a U.S. Embassy, consulate legation or other office of a U.S. Government agency, either within or outside the United States.

E. This card is an application to vote only in FEDERAL ELECTIONS. If you wish to request a ballot for State and local elections, as well as Federal elections, and are qualified to do so in your State, you can use the Standard Federal Post Card Application or other form accepted by your State for this purpose.

(C) Upon the other side of the card there shall be printed in red and blue type the following:

FILL OUT BOTH SIDES OF THE CARD

_____
_____ FREE of U.S. Postage
_____ Including Air Mail
_____
_____ Official
_____ Mailing
_____ Address

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: _____
(Title of Election Official)

_____
(County or Township)

_____
(City or Town, State)

(c) Overseas citizen Federal election post cards and the absentee ballots, envelopes, and voting instructions provided pursuant to this Act and transmitted to or from citizens residing overseas, whether individually or in bulk, shall be free of postage, including airmail postage, in the United States mail.

(d) The Administrator of General Services shall cause overseas citizen Federal election post cards to be printed and distributed to carry out the purposes of this Act, and he may enter into agreements with the Postmaster General, with heads of appropriate departments and agencies of the Federal Government, and with State and local officials for the distribution of such cards.

(e) Ballots executed outside the United States by citizens residing overseas shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

ENFORCEMENT

SEC. 5. (a) Whenever the Attorney General has reason to believe that a State or political subdivision undertakes to deny the right to register or vote in any election in violation of section 4 or fails to take any action required by section 5, he may institute for the United States, or in the name of the United States, and action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 7. (a) Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election, or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

(b) The exercise of any right to register or vote by any citizen residing overseas shall not affect the determination of his place of residence or domicile (as distinguished from his place of voting) for purposes of any tax imposed under Federal, State, or local law.

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall take effect with respect to any Federal election held on or after January 1, 1974.

Mr. MATHIAS. Mr. President, I call up this amendment, and I say frankly that I am not going to press for its adoption because while it deals with a very vital area of our election laws, it does deal in an area in which I think we need further study and in which it would be unwise for the Senate to act without the benefit of detailed committee research. It deals with those large numbers of Americans, well over 1 million in Europe alone, who are residing overseas, who, because of their residence overseas, are cut off from participation in the political life of the Republic and for whom some redress really should be found.

I have discussed this problem with the distinguished Senator from Rhode Island (Mr. PELL), who is chairman of the subcommittee, and I find that he is particularly interested in this subject, himself, and he has assured me that the subcommittee will give very close attention to it; and on the basis of that assurance, I will not press for action on this amendment to this bill at this time, and I withdraw it from consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CANNON. Mr. President, if the Senator will yield, I would like to say that I personally am a supporter of the amendment. I think it is a good provision. I do not want to see it on this bill, but it is a proposition I have supported for a considerable period of time, and I hope we can have favorable action. As a matter of fact, I believe the committee did report out legislation to that effect, as I recall, at an earlier time.

Mr. COOK. Mr. President, I yield myself 1 minute on the bill.

May I say to the Senator from Maryland that we already covered, in the Voting Rights Act 2 years ago, the fact that American nationals overseas can vote in Presidential and Vice Presidential elections. We still have some problems on that issue with regard to local registrars and we had some serious problems by people who did not get ballots in time, and questions were raised.

Therefore, I would hope we would pursue this matter further, to see to it that it becomes a routine matter, that it can be done and not have problems raised which have arisen in the past as a result of our first efforts.

I commend the Senator for his move toward expanding this area as to existing procedures by which we can eliminate the bottlenecks we have had in the past by modifying our present law.

Mr. MATHIAS. Mr. President, I am aware of the efforts the committee made and the contributions of the Senator from Kentucky. I think it is a signal step forward. I think it would remove some of the questions that have arisen, and this also addresses itself to what the Senator from Kentucky referred to with reference to State registration, and the question of whether one has to reside in a State before he can register there, and, if so, what liabilities attach to that.

So I am happy that the chairman of the full committee and the ranking minority member of the committee, as well as the Senator from Rhode Island, have all expressed their interest. I feel very comfortable in withdrawing the amendment, because I feel sure the matter will receive the attention it deserves.

Mr. President, now I call up my amendment No. 357.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 357 is as follows:

In section 4(a), after subsection (1), insert the following new subsection:

(2) at the end of paragraph (b) strike ";"

and insert "or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures." and redesignate the subsequent subsections accordingly.

Mr. MATHIAS. Mr. President, I modify my amendment and send the modification to the desk.

The modified amendment is as follows:

On page 16, line 8, add the following new subsection (10): "(10) striking 'j' at the end of paragraph (b) of section 301 and inserting "'or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures.' and redesignate the subsequent subsections accordingly."

Mr. MATHIAS. Mr. President, the modification merely relates to the position of the amendment in the bill.

This amendment is a very simple one, and it is intended to put to rest some of the pious nonsense that has gone on in our political system over a good many years when a man who is out scrambling, trying to get elected to some public office, says, "Oh, I am not a candidate. I am not running."

This amendment would make clear that if he has committees out working for him, raising money, doing other political activities, and if he does not disallow those efforts on his behalf, then he is a candidate and he is subject to all the legal restrictions and inhibitions which are placed by the law on candidates.

The amendment is just that simple. It is a put-up-or-shut-up kind of proposition. If he wants his friends scrambling on behalf of his candidacy, then he is a candidate, and he should so acknowledge. If he is not, he should say so and let the public draw its own conclusions. I believe that is, in words of one syllable, what the amendment purports to do.

Mr. COOK. Mr. President, I yield myself such time as I may require.

Let me say to the Senator from Maryland I understand what he is after. What really bothers me about this is that we are imposing another condition on a candidate to say he is or is not a candidate prior to the particular occasion when he may wish to say so. Under the present law in the respective States throughout the United States, a candidate is formally a candidate when he announces or files with the Secretary of State of his respective State within the time limits that are necessary under the law.

What this amendment really does is commit a man to be or not to be a candidate, for the purposes of this bill, well in advance of when he may be one, because of the enthusiastic attitudes of citizens in the United States who may want to convince him to be a candidate.

The thing that really bothers me is that we already have numerous candidates for the Presidency of the United States, three and one-half years from now.

Should the desires of an individual in public life really make him proclaim that he is a candidate for public office when he does not want to be one? That is the only thing that bothers me. I can see what the Senator is after. However, suppose that under the terms of this bill, a candidate should keep insisting, "I am not a candidate." Then, under the terms of the Senator's amendment, the provisions of the bill may apply to all people. They may say, "That is fine, but we are going to keep the headquarters open or going to keep the campaign going anyway."

I wonder about the significance of this language. It takes out of the hands of the individual whether he can determine whether he wants to be a candidate for office.

Mr. MATHIAS. Mr. President, if the Senator will yield, I think there is a slightly different gloss on the amendment than the Senator is putting on it. This does not require a man to put up a "Cook for President" banner.

Mr. COOK. Mr. President, let us not get me in that arena. We have enough in the Senate already that are in that arena. I would appreciate my name not being put in it.

Even if the man writes a letter and says, "Cease," what responsibility is there on that candidate if the individual does not want to cease? If that candidate writes and says, "You shall cease and desist and continue no further," what value is that under the bill?

Mr. MATHIAS. The question is not really whether a layman proclaims a man to be a candidate. The question is whether the candidate is subject to the provisions of the law as to reporting and disclosures and other matter which apply to candidates.

When a person becomes a candidate, he enters into a different status than that of a totally private citizen and acquires a great deal of liabilities and some additional ones by legislation in the form of the bill before us.

The amendment defines the time at which those liabilities apply. It does not create any new ones.

It does not relieve one of any duties. It simply makes it more definite as to when one has arrived at the point when he has to begin to completely agree that the campaign committee can start to raise money and take any political action in his name and on his behalf. And if the man does not disavow it, then, he must by implication do things that the statute requires him to do. It fixes the time on which his obligations begin and end.

Mr. COOK. Suppose that the man writes a letter and says, "cease," that eliminates his requirement to file. They can continue to perform their work on behalf of the candidate. Is that not correct?

Mr. MATHIAS. The Senator from Kentucky and I have both had the opportunity to observe that when a candidate publicly tells a committee to cease, it has a dramatic effect on the amount of money that can be collected and on the amount of activity that will take place.

I think that by defining the time when a person becomes a candidate, as a legal matter and not as a PR matter, we will have made the law clearer and will have relieved candidates of many of the potential uncertainties that plague their lives today.

Mr. COOK. Suppose that an individual were to start a one-man campaign for a certain man's candidacy and uses his own money. They write him a letter and say "cease." That means that the man does not have to file for the expenditures being made. But he is not relieved of any liability for that individual. I think that is the position we would be in, and the man would continue his activity.

What have we solved and what in the entire analysis is determined as to whether a person is or is not a candidate?

Mr. MATHIAS. I think there has been in the past a considerable amount of activity to promote candidacies which the presumptive candidate has disavowed and pretended was not to go forward. And in those periods of time, moneys were contributed which were not reported, and it was presumed that the law did not apply.

This is a mechanism by which we can put an end to that. It would provide for complete reporting if a candidate publicly says "I am not running," or if a person says "I am not a candidate and I am not running for the office for which these good friends of mine are promoting me, and I appreciate their efforts, but I want them to stop."

It seems to me that is a very strong implication in law and creates a problem for those who have done the promoting without authority, and it relieves the persons who did not consent to having his name advanced.

Mr. COOK. Mr. President, I yield myself 2 minutes in opposition to the amendment.

Mr. President, I feel that we have covered most of the situations which the Senator from Maryland is attempting to cover by the amendment of the Senator from Rhode Island.

We have said that no one can spend for or on behalf of a candidate more than $1,000 without receiving permission from the candidate. That does not apply after the candidate announces. It applies now when someone works on behalf of a candidate if that person thinks the man should be a candidate, if they expend an aggregate of $1,000 or more.

It seems to me that this language becomes redundant and places a burden on the individual to make himself a candidate before he wants to become a candidate, or it makes him deny that he wants to be a candidate when he wants to go through the prerequisites under the law as to when he can file and formally become a candidate.

It seems to me that what we have said by adopting the Pastore amendment is that if anyone wants to spend more than $1,000, that individual must receive the

permission of the individual he is campaigning for.

Mr. MATHIAS. That covers expenditures. A man can raise $1 million and not spend a cent and not be covered by the Pastore amendment.

Mr. COOK. Well, if a man raises $1 million and does not expend one dime of it, how is he going to conduct a campaign for a candidate who has not as yet said that he wants to be a candidate, by reason of the fact that he has $1 million in advance and does not utilize it for or on behalf of promoting that candidate for public office? Under the terms of the bill, if they have a committee and a man wants to become a candidate, even though they have raised $1 million, that committee cannot give him more than $3,000 for his campaign. So, they have $997,000 that they have to find some outlet for. Is that not correct?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOK. Mr. President, I yield myself an additional two minutes.

Mr. MATHIAS. Mr. President, the question is, what does that candidate have to do about it? The question is, what responsibility does the purported candidate acquire? The $1 million does not have to be raised by a committee. The $1 million may be raised by really some good, enthusiastic fundraiser for the purpose of getting MARLOW COOK to run for the Presidency.

Mr. COOK. The unfortunate fact is that that person, having raised $1 million for that purpose, as an individual can only give $3,000 to my candidacy as the bill stands today.

Mr. MATHIAS. He might develop those committees. However, those are the mechanical details which flow from his action. This amendment goes not to that activity, but what happens to MARLOW COOK?

Mr. COOK. Let me ask the Senator a question. Does the Gallup Poll make a man eligible for the Presidency? Can a man come out and say, "Senator MATHIAS is the only Republican who can beat those Democrats, and he will likely be a candidate, because he can win."

Now, as of that time is the Senator saying that if some individual calls the candidate and says, "We are starting to work right now, we think this is the thing to do," at that stage of the game the candidate, by reason of that public pressure, must say "Cease"? Because I must say that it seems to me again we run right in the face of the first amendment.

Mr. MATHIAS. For that reason I could not call up the Baltimore Sun or the Washington Post and say, "Don't publish that Gallup poll," but I can call up a fundraiser who is out beating the bushes for me and say, "Knock it off, I don't want it."

Mr. COOK. Well, under the Pastore amendment you have to do it in writing.

Suppose the Baltimore Sun puts an editorial in the newspaper and says they are for you; you cannot tell the editorial writer to cease.

Mr. MATHIAS. No; and this amendment does not attempt to reach that.

Mr. COOK. Mr. President, I think under the Pastore amendment we have sufficiently established that if anyone attempts to expend in excess of the aggregate of $1,000, he has to have permission from the candidate. I think that puts the candidate, perhaps unfairly at that stage of the game, into the position of being a candidate long before he wants to be one. This is a decision the individual has to make for himself, whether he does or does not want to be a candidate, but we are saying that now he must rely on the fact that he is going to be forced into being a candidate, or else deny he is a candidate, well in advance of the time when he may wish to do so. Therefore, Mr. President, I continue to oppose the amendment.

The PRESIDING OFFICER. Who yields time? Is time on the amendment yielded back?

Mr. COOK. I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time, and ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that the rollcall vote on amendment No. 357 of the Senator from Maryland (Mr. MATHIAS) occur at the hour of 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Nevada yield me a little time, so that I might ask some questions?

Mr. CANNON. Certainly. How much time does the Senator want?

Mr. HARRY F. BYRD, JR. Five minutes

Mr. CANNON. I yield 5 minutes on the bill to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I favor this bill basically; I think it is very important that a limitation be put on the amounts of contributions that individuals can make to political campaigns. I think it is very important that a ceiling be placed on expenditures for political campaigns. I favor the $25,000 limit which the Senate approved last week. It is in conformity with legislation which I introduced earlier this year, I think in January.

There are several questions I would like to ask the Senator from Nevada for purposes of clarification.

I am not clear as to how loans are handled by this legislation, and how a person being a candidate for the House of Representatives or the Senate gets his campaign started.

I would assume that a person wishing to be a candidate for Congress would establish a committee, a finance committee or a central committee, or whatever he might want to call it, and the question I ask now is, once that committee is established, can the committee borrow money from the bank and repay that money as contributions are received?

Mr. CANNON. The committee could negotiate loans. However, a loan is considered the same as a contribution. Loans or other things of value are considered the same as contributions, so there would be a maximum of $3,000 from any one person or any one source from the standpoint of the loan, other than the exempted committees, which are the national committee of the party or the senatorial campaign committee.

However, there is a provision in the law that does not prohibit a bona fide loan conducted in the normal course of business. The amount of the loan, of course, if a loan were negotiated at a bank in the normal course of business, would be charged against the candidate's overall limit of the money that he could spend. Of course, if it were repaid, then it would not be included in the total. In other words, is the Senator talking about the typical seed money type of situation?

Mr. HARRY F. BYRD, JR. Yes, it is the seed money that I was interested in.

Mr. CANNON. That is the situation. Subject to those limitations, they can go out and negotiate loans, or a family loan could be negotiated up to the extent of the maximum limit we have placed on an individual family. We have seen that in a number of instances, where family loans have been used for the purpose of commencing campaigns.

Mr. HARRY F. BYRD, JR. Well, let us take first a bank loan. A person becomes a candidate for the House of Representatives, and he appoints a finance committee, and the finance chairman goes to the bank to obtain a $25,000 loan as seed money.

Now, I assume, from what the Senator says, that he is permitted to borrow that $25,000 from the bank, to be repaid from contributions later.

Mr. CANNON. The answer is yes, and that is covered in title II of the criminal code amendments of the present law, section 591, which we do not change in this particular bill. It defines contributions, and says:

"Contribution means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business). made for the purpose of influencing the nomination for election, or election, of any person to Federal office,

And so on.

So the committee could go to a bank, under these terms, and negotiate a loan in the ordinary course of business to commence a campaign, but it is not therefore construed as a contribution. However, if the loan were negotiated so that that loan, together with other expenditures, exceeded the candidate's authorized expenditure, then he would be in violation.

Mr. HARRY F. BYRD, JR. I understand that. But the point I wanted to try to understand is that Mr. X, the

finance chairman for a particular candidate, could go to the bank and seek a loan of $25,000. The bank officers would probably say, "This is for a committee. We cannot lend it on that basis, but if you endorse it, we will lend it."

Now, his endorsement is for $25,000 even though he is restricted to a $3,000 individual limitation of contributions, that restriction would not prevent the bank from accepting his endorsement, I assume?

Mr. CANNON. If the bank is actually making the loan in the ordinary course of business, they would not be limited to the $3,000 contribution, because it is not a contribution.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CANNON. It is a loan, and a bona fide loan in the ordinary course of business, and that would not be considered a contribution.

Mr. HARRY F. BYRD, JR. I thank the Senator.

QUORUM CALL

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 48, line 25, insert the following: Between "any" and "provision" insert "comparable".

Mr. HATHAWAY. Mr. President, I have discussed this amendment with the Senator from Nevada. The purpose of calling it up is really to have a colloquy to explain the provision with respect to the Federal law superseding the State law; and undoubtedly at the end of the colloquy I shall withdraw my amendment.

Do I correctly understand that the Federal law will preempt any State law with respect to any Federal candidate, regardless of whether or not the Federal law covers a certain area that the State law might cover?

Mr. CANNON. Mr. President, it is the intent of the committee to completely supersede State law with respect to Federal elections. Once a man becomes a candidate, he is required to meet the requirements of Federal law, and we do not interpret this to mean that he would then be required to meet other requirements that have been written into individual State laws insofar as his candidacy for Federal election is concerned including the amount of money he is required to spend, including the number of reports he is required to make and to whom, and all other matters we can conceivably think of at this point.

Mr. HATHAWAY. I thank the Senator. I was particularly interested in the reporting requirements. I understand that a candidate for Federal office now would still have to file those reports which are required by the law as it is being amended by this bill and that no State law which requires any other kind of reporting would have to be filed by a candidate for Federal office.

Mr. CANNON. That is the intent of the committee, and we believe that we have expressed it in the language. We certainly want it to appear clear in the RECORD that that is our understanding.

Mr. HATHAWAY. If the State had a law which is not covered by the Federal law, which applied to elections in general, the candidate for Federal office would not be obligated to conform with those State provisions?

Mr. CANNON. Other than insofar as is required to become a candidate.

Mr. HATHAWAY. I understand that.

Mr. CANNON. The State may have specific provisions as to becoming a candidate; there may be different filing fees in one State or another; the number of signatures on a petition required to nominate; different forms of nomination—all these matters are left up to the States.

Once a man is candidate for Federal office, we feel we have preempted the field in this act.

Mr. HATHAWAY. I thank the Senator from Nevada.

Mr. President, I withdraw my amendment.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Kentucky (Mr. COOK), I yield 5 minutes to the Senator from Tennessee on the bill.

Mr. BAKER. I wonder if I may take a little more than 5 minutes.

Mr. GRIFFIN. Yes.

Mr. BAKER. Mr. President, I am keenly aware of the need for reform of our electoral process. In the wake of Watergate and the massive erosion of public trust and confidence in the Government, we should expect no less. However, we must avoid what some have called an orgy of reform—that is, reform without purpose or direction; reform which treats the ailing body politic with bandaids instead of surgery; reform which resembles change for the sake of change.

In saying that—as I shall indicate later in my statement—I am not making allegations against the form and substance of this bill but, rather, conceptual concern.

I think electoral reform of the most fundamental type is in order. But I think we do ourselves, the system, and the country a grave disservice by attempting to legislate a solution before we are fully aware of what the problems are. A number of campaign finance proposals have been considered in connection with the pending business, and I have strongly supported many, including a strict limitation imposed on individual contributions, a limitation imposed upon expenditures, a ban on all cash contributions, a strict limitation upon cash expenditures, an effort to bring order out of the chaos of political committees, full public disclosure of contributions, a single designated repository for individual campaigns, an independent elections commission, and a number of other changes in the existing statutes.

However, the problem is far greater; and by my consideration and determination of the merits of this bill and the several amendments to it, I do not wish to imply a limitation of the scope of what I conceive to be the necessary initiative of structural electoral reform.

The need for electoral reform was not created by Watergate, but rather exacerbated by it. Fifteen years ago, a survey showed that 80 percent of the people polled through the Government could and should be trusted; but in the years since then, that percentage has declined to the point that only one out of every two people place much stock in the integrity of public officeholders, not to mention their ability to govern effectively. This is not the kind of faith that can be restored overnight; nor is it the kind that will be restored by piecemeal attempts at alteration of the existing statutes. It is, rather, the type of faith that will only be restored if we can convince the American people that we have undertaken the sort of political soul-searching that is required under the circumstances and that we have made a concerted effort to enact meaningful electoral reform.

Such reform, in my view, should include consideration of shortening the official length of political campaigns particularly that for President, lending some semblance of uniformity to our primary process through a system of regional primaries.

I recall that in the early spring of 1972, one of my colleagues in the Senate, on the opposite side of the Chamber, who was a candidate for President, remarked to me:

We have to get away from this business of having an election every Saturday.

The signs of strain and weariness on his face were ample evidence of that necessity.

We need to broaden the base for the selection of delegates to national conventions, tying those delegates more directly to the percentage of popular vote won in a particular State, or possibly even the election of delegates to the national conventions. I believe we have to modify or abolish the 18th century vestigial remains of the electoral process which resulted from a compromise at the time of the founding of the Republic—I refer, of course, to the electoral college—so as to prevent the election of a minority President or the political manipulation of an election in the House of Representatives, and, in general, give the American people a broader opportunity to participate in the selection of candidates for office, once again with special emphasis on the manner in which we select our candidates for President and Vice President of the United States.

I would also urge that consideration be given to methods of improving the cooperation between the executive and legislative branches of Government.

Perhaps if the President and key members of his staff were to be offered permanent office space in the Capitol, we might find them more accessible and they might find us more willing to cooperate on legislative initiatives. This is not an attempt to diminish the separation of pow-

ers, but rather to improve relations and communication.

Nor is it a criticism of this administration, but rather a commentary on the state of the Presidency as it has evolved over many years. It is important, I believe, that in some way we return to the era of a first-name Presidency. It is important, I believe, that we find a way to reduce the aura of mystique which has come to engulf the institution itself.

These are the types of fundamental reform which are necessary, in my view, if we are to effectively arrest the erosion of public trust and confidence in our Government, and these are the types of reforms which require the most careful deliberation and scrutiny before enactment by Congress.

Despite the unquestioned good intentions, the thoroughness, the workmanlike approach of the responsible committees of Congress in presenting to us the Federal Election Campaign Reform Act, presently pending before the Senate, this piece of legislation and several amendments to it, in my judgment, do not reflect the kind of thorough consideration and thorough reevaluation of the political system in the United States, and the most delicate and functional part of it, the selection of public officials, which these times mandate.

Moreover, the proposed legislation makes no effort to anticipate or accommodate the recommendations authorized and mandated by Senate Resolution 60, adopted last February by a vote of 77 to 0.

This is not to say that the Select Committee on Presidential Campaign Activities, known in the press as the Watergate Committee, is a repository of political wisdom. It clearly is not. But I believe substantial recommendations for the reform of the Federal electoral system, which may lie technically beyond the scope of Senate Resolution 60 are as inevitable as the pursuit of the facts and I suspect that the report of the committee created by Senate Resolution 60 will be as careful and as responsible as members of that committee can contrive. Moreover, when the committee's report on findings of fact and recommendations for changes in campaign laws and procedures is filed not later than next February 28, it is likely, in my judgment, that many of its recommendations will either overlap or conflict with whatever action we may take on the pending measure.

Consequently, Mr. President, as a means of expressing my desire for a more comprehensive approach to electoral reform, and for a more comprehensive approach to the selection process and intelligent dealings with the overlapping jurisdictions between the several branches of government; and as a means of illustrating my concern that our approach is not fundamental enough, but certainly not as a criticism of the distinguished Members of the Senate who brought us this legislation, or the amendments adopted to it, or which were considered or failed to be adopted, without criticism of any Member of this body; but rather to express concern that our reform efforts be deeper and more comprehensive, it is my intention after first obtaining leave of the Senate under the Rules of the Senate to do so, to vote not for nor against this bill, but to answer present.

Mr. President, if it is in order at this time, I ask unanimous consent that on the rollcall on final passage of this bill I may be permitted to answer present instead of for or against.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I appreciate the remarks that my distinguished colleague has made and his reasons for making them. I simply point out that while it does appear that many of the changes in the bill are as a direct result of actions of the Watergate Committee and the matters that have there been disclosed, it is a fact that the reforms in the bill go far beyond the Watergate proceedings and as a direct result thereof.

Many of the proposals for change in the bill were initially in the bill that was passed in 1971. Many of them were proposals approved by the Senate, on the floor of the Senate. But when we went to conference, we were unable to get the House to agree to them, and we had to drop them. A number of provisions that the Senate voted on were dropped in conference. They are again, however, in this bill. They are provisions that we think should add some responsible features to the present election law.

I certainly agree with the distinguished Senator that we should look forward to recommendations of the committee when they have completed their work. They could well go into the election laws.

But I point out that I do not believe the American public is willing to wait until that time for the Senate to take some action. We had commenced action on this proposed legislation prior to the developments of Watergate.

The bill now before us is one that comes from two committees of the Senate. Two committees took jurisdiction over parts of the bill. The bill was considered first by the Committee on Commerce, on which the distinguished Senator from Tennessee and I both serve. After the Committee on Commerce had concluded its work on the bill, it was referred to the Committee on Rules and Administration for consideration of matters within its jurisdiction. So it is quite obvious that the bill has had considerable careful consideration.

I might say that the bill has received more consideration than some of the amendments that have been proposed on the floor of the Senate during the debate, and which I believe have stemmed from Watergate publicity. Many amendments have been offered and accepted simply as a result of the pressures of Watergate rather than as a result of study and hearings in committee—amendments that go to the very essence of their viability or desirability.

I simply say to the Senator that we often get ourselves into situations where we have to respond to pressures, and perhaps by legislating on the floor of the Senate we come out with legislation that has not been adequately considered in certain areas. As a result, we may find ourselves here a couple of years from now trying to amend the legislation again.

I also wish to point out to the distinguished Senator, the vice chairman of the Watergate Committee, established under a resolution, that the House has not even started to consider campaign legislation as of this time. It may be that at the time the Watergate Committee reports its recommendations, we will still be in a position of waiting to go to conference with the House. If so, I can assure the distinguished Senator, as one who will probably be a member of the conference committee, that I certainly would be willing to take into consideration at that time all of the recommendations that the Watergate Committee might make.

Mr. BAKER. Mr. President, will the Senator from Michigan yield me 1 minute?

Mr. CANNON. Mr. President, I will yield to the Senator from Tennessee whatever time he may require.

Mr. BAKER. I appreciate the remarks of the distinguished chairman of the Committee on Rules and Administration. He is entirely correct in every respect. It is simply that my concern for maintaining momentum for fundamental change might determine whether legislating will not have a far more sweeping effect than a charge that one voted for or against this particular measure.

By answering "present" I am trying to preserve all my options, and to put the Senate on notice that, for my own purposes, I intend to go much further than the bill goes. I do not doubt for 1 minute that the Senator from Nevada (Mr. CANNON) states the situation correctly and describes also the pressures that are at work. I am not critical of the committee that has brought to the Senate what I believe, by and large, is a good piece of legislation. But this is my way of saying that there is more to come.

I do not wish at this time to diminish in any respect the Senate's freedom to act as we have now acted, or are about to act, or to act in a new and different way at some point in the future, particularly after the report of the Watergate Committee.

I thank the Senator from Nevada for his remarks. I entirely concur.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BAKER. I will, if I have any time.

Mr. COOK. Mr. President, I yield myself 5 minutes on the bill. Does the Senator wish to address a question?

Mr. CRANSTON. I wanted to address a question or two to the Senator from Tennessee.

Mr. COOK. Mr. President, I yield to the Senator from California for the purpose of propounding a question to the Senator from Tennessee.

Mr. CRANSTON. Mr. President, I listened with great interest to the remarks of the Senator from Tennessee. I share with him the feeling that it will be necessary to go further than S. 372 goes, even though it provides remedies for problems that we knew of before the

revelation of Watergate as well as dealing with some problems revealed by the Watergate investigation.

The distinguished chairman of the Committee on Rules and Administration and the distinguished chairman of the Finance Committee both have agreed to hold hearings in September on proposals for public financing of campaigns. Some of us have given a good deal of thought to public financing. There are now proposals that combine public and private financing and which go quite a bit further into the field of public financing.

I am delighted that the Senator from Tennessee will have further suggestions to make. I hope he will take a real, hard look at public financing—either a combination of public and private financing, or, as an alternative, all public financing.

First, I would like to ask the Senator if he has given thought to the possibility of public financing? My second question is, what likelihood is there that the committee on Watergate itself will come forward with specific suggestions in the field of campaign reform?

Mr. BAKER. Mr. President, if the Senator will yield——

Mr. COOK. Mr. President, I yield to the Senator to reply.

Mr. BAKER. I think it is likely that the Watergate Committee will have recommendations on institutional arrangements in the field of governmental involvement, in the field of electoral reform, financing, and the like. I think it is entirely possible the committee will make specific recommendations, even though we are not a reporting committee. I have not yet given attention to whether it will be appropriate for the committee to make recommendations on the question of public financing. As the Senator knows, I was one of the sturdiest opponents of public financing in the past. I am perfectly willing to say now on the floor of the Senate that I intend to reexamine that. In light of the hearings which have been held, in light of the changing and evolving times, I owe it to myself and the public to reconsider that possibility. However, if we finance campaigns from the Federal Treasury, we should be aware that we may have Federal regulations in the most delicate of all political processes, in the election of ourselves, and we may have a Federal bureaucracy telling us how to run campaigns. I still have that fear, but I must say I am now reexamining my feelings in that respect, and I do not rule out the possibility that I may turn to that in preference to any other form, although I must say it presently does not appeal to me. There are many aspects of it that do not appeal to me. However, I do not think it would be appropriate for me to delineate my feelings about public financing of campaigns at this time except to say I am not only willing but here publicly state my intent to reexamine that situation in light of the public disclosures.

Mr. CRANSTON. I thank the Senator for a very direct response to my questions. On the matter of public financing, a number of Senators have stated privately or on the Senate floor that they are reexamining their views in light of——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRANSTON. May I have 1 more minute?

Mr. COOK. Mr. President, I yield myself 5 minutes on the bill and yield 1 minute to the Senator from California.

Mr. CRANSTON. Others have said they have now come around to accepting public financing, something they have not supported previously. The Senator referred to the fact that Government bureaucrats might get control of political campaigning through public financing. That is one of the many pitfalls we must guard against, along with other problems, such as how do we give independent candidates a fair shake? I believe we will have to get answers to those questions, and I am delighted with the efforts to get the best answers which the Senator from Tennessee and other Senators will make.

The PRESIDING OFFICER. The Senator from Kentucky has 4 minutes.

Mr. COOK. Mr. President, may I first apologize to the Senator from Tennessee for not being here. He advised me of what he was going to say. The Senator from Kentucky wishes merely to commend the Senator for taking advantage of rule XII, in the position he finds himself in. I think we have to admit to ourselves that we were in a position where we worked on this bill in the Commerce Committee and then we were in a decided time limitation in the Committee on Rules and Administration that was imposed on us by the Senate.

I do not think there is any question that this bill deals basically wth two items, and only two items. First is the item on reporting; second, the item on financing. It does not deal with many of the problems that plague the Senator from Tennessee as he deals with the present hearings. We are not talking about methods of campaigning. We are not talking about responsibilities of candidates, whether they be positive or negative, which I know the Senator has had to deal with every day.

So I only say I look forward, I hope, to working with the Senator from Tennessee in developing that degree of response that we have all gotten as a result of the hearings and that we know must be taken into consideration and that we know must become a part of the debate and discussion on the floor of this body.

To that extent, this bill does not cover many of the fields which I know are extremely antagonizing at this stage of the game.

I can only say I am delighted he has taken this position under rule XXII, because the Senator from Kentucky is delighted to look forward to working in this area, under his leadership, with a view to meeting the challenge that all of us have to meet as a result of the disclosures that have been made and that may well be made.

So the Senator from Kentucky is delighted with the options that are available to the Senator from Tennessee. I only want to say that I hope he also feels they are available to me. I have worked on this matter in the Commerce Committee and I have worked on it in the Committee on Rules and Administration, and we have spent many days on the floor of the Senate, as the Senator well knows, up to now on this matter.

May I say to the Senator, just as an aside, I am afraid, in the present shape this bill may be in on final passage this afternoon, we will all have more than ample time to do what the Senator wants to do, because, having been a member of the conference committee 2 years ago with regard to this bill and the posture the Senate conferees had to take, we wound up with less than an adequate bill to bring back to the Senate. I think with a more adequate and with a fuller debate within the framework of the committee system, we will be able to touch the issues the Senator from Tennessee is concerned about.

Mr. BAKER. Mr. President, will the Senator yield to me in reply?

Mr. COOK. I yield.

Mr. BAKER. I thank the Senator from Kentucky. I have discussed many of the matters I have touched on the floor with him in committee. He may be assured I look forward to his participation in the Rules Committee and with other Members of the Senate in trying to formulate the best comprehensive approach in this area of the public trust, which is politics. I certainly do not intend to try to stake out a position of my own without the assistance of every member of every committee which has jurisdiction in the field and to which every Member of the Senate can make contributions. I am deeply appreciative of the remarks of the Senator from Kentucky. I look forward to collaboration with him in that respect in the future.

Mr. COOK. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield 10 minutes to the junior Senator from Rhode Island.

Mr. PELL. Mr. President, I urge my colleagues to enact S. 372, the Federal Election Campaign Act Amendments of 1973.

I congratulate the junior Senator from Nevada (Mr. CANNON) very much indeed on his excellent job of floor managing this most complicated piece of legislation.

Earlier this year I chaired hearings on this important campaign reform legislation. Testimony from many distinguished witnesses indicated that public faith in the integrity of our electoral processes continues to be seriously threatened by the undue influence which large contributions have on Federal elections. The enormous sums of money needed to conduct campaigns have caused many of our citizens to lose faith in our democratic processes. We must take decisive action to restore public confidence in our institutions of Government and in our elected officials.

We have all seen in the past few weeks how the actions of professional politi-

cians have caused an increasing number of Americans to be disillusioned and to advise their children not to seek careers in politics.

Nevertheless, this is a complex and difficult problem. Whether we seek election reform through disclosure laws, or through limitations on overall campaign spending, and on individual contributions, constitutional issues involving first amendment freedoms are raised. Moreover, there are no easy ways to enforce these laws in a fair, efficient, and equitable manner. As I have stated in my additional views accompanying the Rules Committee report on S. 372, I have reservations about the constitutionality of these limitations and am troubled that they may put nonincumbents and minority candidates at a disadvantage.

Hopefully, public financing will ultimately provide us with a better and more effective way to address this problem. I have agreed to conduct hearings on public financing in the latter part of September. At that time, there will be a thorough examination of the viability of implementing the concept of public subsidization of election campaigns—a concept which, because it seems to me to minimize the constitutional issues, and because it would seem to assure minority candidates of a floor level of public funding—I support.

Yet, public financing is not without its problems. Among these are the proliferation of candidates in primary elections, criteria for determining who is entitled to subsidies, and how to arrive at an acceptable formula for allocating the subsidies. I am not at all sure that candidates from the major parties should be given larger subsidies than minority party or independent candidates; perhaps, the opposite is true. I am also not fully convinced that a candidate's subsidy should be determined by performance in previous elections. We must deal with these and other questions, and I renew my pledge to do this. It is my wish to have a viable public financing bill on the floor of the Senate at the earliest possible date.

Notwithstanding my support for the concept of public financing, I continue to favor any reasonable and earnest effort to improve, perfect, and better implement our election laws. This legislation, in its amended form, is such an effort. The Federal Election Campaign Act of 1971 is a good and, I believe, fundamentally workable law. Contrary to some recent reports in the press, I believe that this bill would strengthen, rather than weaken, our present law. It would require candidates to certify, in writing, to providers of services or supplies that spending limitations will not be exceeded; it would require all political committees which spend or receive over $1,000 per year to influence Federal elections to comply with the reporting requirements of the law; and, it would also require that persons individually expending over $100 must also report to the Commission.

My amendment, which was accepted by the Committee on Rules and Administration would provide that no contribution may be given to any candidate or political committee in excess of $100 during any calendar year unless such contribution is made by a written instrument identifying the person making the contribution. My amendment outlawed cash contributions in excess of $100. I am glad to say this amount was reduced to $50 on the floor of the Senate. Cash contributions can often be virtually impossible to trace, and they can provide an easy way to circumvent disclosure requirements and contribution limitations. The 1972 elections showed the abuses which could arise from excessive use of cash contributions.

By passing this amendment, I believe that at long last we will no longer have these black attache cases and brown paper bags full of $100 bills moving around the country, as they did last year.

Mr. President, I recognize that we cannot improve people or mores by law. However, I think that we can all agree that the offenses that have been committed, as brought out in the Watergate hearings, are offenses against public law and public mores, such as burglary, forgery, and others, and are really violations of the laws that have already been passed.

My own view is that we might have been well advised to let the present excellent law remain on the books unchanged and give it a chance to really work. I think that the full light of publicity on the sources of contributions will in itself act as an inhibiting cause so that if a man receives an improper contribution or a contribution from a questionable or improper source, that very fact will be a negative factor in his campaign for election or reelection. However, in any event the die has been cast, and the decision has been made that we should move ahead into these new fields.

I agree with the statement of the distinguished Senator from Tennessee that when the Watergate committee report is made, and has been finalized, there may be additional specific recommendations.

The bill, I am pleased to state, also provides that cash expenditures in excess of $100 are precluded. Both of these provisions are improvements directed at more full and open public disclosure and publicity of campaign contributions and expenditures. I will continue to support and favor such improvements.

Mr. President, I think the reasons for enacting S. 372, are compelling. It would, however, be a disservice to the public to contend that this legislation, public financing bills, or any election reform legislation would prevent a situation such as the complex series of events known as the Watergate affair. The reprehensible activities of forgery, nondisclosure, fraud, espionage, burglary, et cetera, are ones which are against present Federal and State criminal laws. Those who violate these laws are not likely to abide by the provisions of this law, or by any laws. They lack respect not only for the rule of law, but for the democratic process, and for the people of this Nation. We cannot legislate the integrity of our elected officials or of those who seek election. What we can do, and what I believe this bill attempts to do is to more fully expose those who abuse the electoral processes to public scrutiny, and to increased civil and criminal penalties.

One would hope that the general public would demand a higher standard of honesty and integrity in their elected officials. There is even a case in which a Member of Congress has been reelected when he was serving a jail sentence. I think that is more of a reflection on those who reelected this individual than it is on the Members of Congress.

Mr. President, to provide for more independent and better enforcement of election law, S. 372 provides for a Federal Election Commission. This commission would have primary civil and criminal responsibility for prosecuting illegal violations of Federal elections laws. The commission would also be the central body which would receive the reports required by law. This would lessen the considerable administrative burdens under our present laws. Having this independent Federal Election Commission is one of the most important aspects of this bill, and I strongly support it.

Mr. President, I again urge my colleagues to support S. 372. We must enact this legislation to help restore public confidence in the electoral processes.

We recognize that it is not a panacea. However, it is a step in the right direction. And I urge its passage.

Mr. COOK. Mr. President, I yield myself such time as I may require, and yield to the distinguished Senator from Virginia.

Mr. SCOTT of Virginia. Mr. President, I appreciate the Senator's yielding to me.

Mr. President, I will vote against final passage of this Election Campaign Act, but believe that I should briefly explain why I take this position.

While I would vote for a full disclosure law and vote for a measure that would provide for complete disclosure of all spending there are many objections to this bill.

As you know, Mr. President, over the past several days Senators have added amendment after amendment. I think we have a very confusing bill. It is not the same bill that came from our Rules Committee.

Just 2 years ago we had a so-called campaign reform bill that passed Congress. That indeed was a very complex law. It was difficult, if not impossible, for candidates for office to comply fully with every provision of that law.

I believe we are putting ourselves in a straitjacket by passing such legislation as this. It may well be that this is an incumbent's bill that we are acting on. It has been said from time to time that it is of more benefit to the incumbent Members of Congress than to their challengers. To me it is a confusing bill. I think it is a bad bill, and I shall have no hesitancy in voting against it.

Mr. President, I appreciate the kindness of the Senator from Kentucky in yielding time so that I could outline my reasons for opposing this measure.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 353—AS MODIFIED

Mr. STEVENSON. Mr. President, I call up my amendment No. 353, and I send a modification to the desk.

The PRESIDING OFFICER. The clerk will state the amendment as modified.

The assistant legislative clerk read as follows:

On page 19, line 21, strike the numeral and insert in lieu thereof "$3,000".

Mr. STEVENSON. Mr. President, I ask that the amendment be modified in accordance with the modification I have sent to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. STEVENSON. Mr. President, under existing law, contributions of more than $5,000 received after the last reporting date before the election must be reported within 48 hours of receipt. Under S. 372, contributions of $5,000 must be reported within 24 hours. The effect of this amendment, as modified, is to require that contributions of $3,000 and over received after the last reporting date be reported within the 24 hours.

The bill (S. 372) now prohibits all individual and most political committee contributions in excess of $3,000. This amendment conforms the reporting requirement to the prohibition against contributions in excess of $3,000. It simply requires that those reporting provisions now applicable to contributions of $5,000 and higher, be applicable to contributions of $3,000 and higher.

I have discussed this amendment with the distinguished chairman of the Rules Committee, and I believe that he, and I hope the ranking minority member, are prepared to accept the amendment.

Mr. COOK. Mr. President, I yield myself 30 seconds.

This amendment conforms to the intent of the bill all the way through. We thank the Senator from Illinois for finding it. Basically, as a clerical amendment, we could probably make this change, but if there is any question about it, the amendment cures the problem, and I am perfectly willing to accept the amendment, and yield back the remainder of my time.

Mr. STEVENSON. I thank the Senator. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. JOHNSTON). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 353), as modified, of the Senator from Illinois.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 351

Mr. STEVENSON. Mr. President, I call up my amendment No. 351.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. STEVENSON's amendment (No. 351) is as follows:

On page 16, following line 18, insert the following:

(c) Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(d) In each case where a contribution $100 or over is received by a candidate or political committee, and identification required by this Act is not known, the campaign contribution shall be returned to the contributor if the required information has not been obtained within twenty days after receipt of the contribution. If sufficient information is still not known concerning the source of the contribution to permit its return within twenty days after receipt of the contribution, the contribution and its proceeds shall escheat to the United States."

Mr. STEVENSON. Mr. President, I send a modification to the desk and ask that the amendment be modified accordingly.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

Modification of amendment 351:

On page 1, line 3, strike "or over".

On page 1, line 3 add "of over" immediately following the word "contribution".

The PRESIDING OFFICER. The amendment is so modified.

Mr. STEVENSON. Mr. President, under present law, and under S. 372, campaigns must report name, address, occupation and place of business of the person contributing over $100. There is no prohibition against accepting such contributions even when the information is not supplied at the time the contribution is made. Thus, a campaign can have full use for an indefinite period of time of contributions made without the required information.

This amendment simply provides that if a campaign does not obtain the requisite identification within 20 days of receipt of the contribution, the contribution must be returned. If there is enough information to permit its return, it must be returned to the contributor. If there is not sufficient information to permit return of the contribution to the contributor or it is to be turned over to the Government.

Without such a provision, the candidate might receive full benefit of such contribution and wait until after the election to try to get the requisite identification. If he is unable to provide the information, his campaign could receive a slap on the wrist, but the damage would have been done and the contributions would have been used for the benefit of the candidate.

This amendment simply supplies an element of prompt self-enforcement in an area where better enforcement is needed.

Again, I would hope that the committee would see fit to accept this amendment.

Mr. COOK. Mr. President, I yield myself such time as I may require.

I find the amendment rather inconsistent in relation to the debate we have had so far on the bill. First, we have accepted the Byrd amendment which requires how the funds can be used and requires how excess funds would be distributed, which does not have a great deal to do with the significance of this amendment, but at least, to some extent, it spells out the fact that the candidate cannot use it for his own use and he cannot embezzle it.

More than that, we are trying to get the people of the United States to become more enthusiastic about getting involved in the political system. We are saying that they should become more involved, but then we also are saying that if an individual sits down and writes out a check $101 or $105 and gives it to a candidate that he honestly wants to give it to, under present law, he can deduct a percentage of it on his income tax return as having given it to the candidate; and yet, somehow or other we find—maybe he is not going to find out until he gets his cancelled check that they could not find out the requirements, under the law, as to his name, address, place of business, and he has given his money to his Federal Government, when we know he did not want the Federal Government to get that money at all. He might even be offended at having given it to the Government.

That is like saying he should put so much money into a fund and it should be distributed equally to all the respective candidates. I can see that many people in the United States would be morally offended if they made a contribution to be distributed by a formula set up by the Congress and came to find out, by reading the newspapers, that their money which they wanted to go to candidate X, had gone to candidates X, Y, and Z, two of whom someone might be totally against, and one of whom he was for and sent his contribution to that man. It seems to me that if the amendment required that checks will be destroyed, or something of that nature, at least the integrity of the ability of the individual to want to give to the candidate of his choice is maintained, even though he did not comply with the law, which he may not know about, then I think many Americans will be particularly offended if they had to sit down and write out a check to the candidate of their choice and did not know that they were not complying with the restrictions under the law, and then came to find out that not only did their candidate not get their money but when they received their canceled check, they found out that, in effect, their check had escheated to the

Treasury of the United States, that their money went into the Treasury.

It seems to me that this really is going far afield with the ability of an individual to give. I think it is imposing on him and, really, not on the candidate—on the candidate by indirection but on the individual by direction, that he has to sit down and write out his check and put his name, address, business affiliation on the check, and if he fails to do so, the candidate has to send it back to him, if he knows where to send it back to him, and this individual who gave this sum of money without knowing what the requirement of the law was, finds out, in effect, that his money is escheated to the Federal Treasury.

If we are going to give him credit for this on his income tax, I might be able to buy it, but I cannot see how, when an individual wants to give money to a candidate who is not aware of the complexities of the law, if they fail to notify him, sends his check back, and he finds that the check has an endorsement on it that it has been received by the Treasury of the United States, and he has lost the voice of his money and his ability to contribute.

The person who will really be paralyzed by this amendment will not be the candidate but the individual who seeks to give his money to the campaign and because he has failed to read the intricate workings of the law, that he must have all these things on his check, and finds that his penalty, his money, will belong to the Government, and he will receive nothing except a total and complete loss to him of his money.

So, Mr. President, I must say, at least that this Senator cannot accept the amendment and feels that he would have to be violently opposed to it, not because of the responsibility of the penalty it imposes on the candidate, but the penalty it imposes on the individual who seeks to contribute to a campaign fund. I think he would be very much offended to find out that in his desire to support a candidate, he sits down and writes out a check and finds out that as a result of his failure to read the intricacies of the law, when he receives his cancelled check back, he finds out, in effect, that he made a contribution to the Treasury of the United States for which he receives absolutely nothing except the notification that, having failed to abide by the law, he is not violating the law for which he might be guilty of something and could be fined something, but violating the law to the extent that his entire penalty is his entire contribution, I think that is a very severe penalty to impose on a contributor who wishes to contribute to an individual's campaign.

Mr. CANNON. Mr. President, I agree with my colleague from Kentucky that this is not a good amendment. I can certainly see a lot of my constituents being very unhappy if they were to make a contribution and learn later that it had gone into the coffers of the Federal Government.

I think that the amendment of the Senator from West Virginia was a more responsible type of amendment, even though it covered funds left over from a campaign. With some provision such as that I would be inclined to go along. But we have a provision in the law now that tells what must be accompanying the contribution made. I would assume that those provisions would be complied with.

I would, therefore, have to oppose the amendment and urge its rejection.

Mr. COOK. Mr. President, in addition to what the Senator from Nevada has just said, under the terms of the bill now, if there is a failure to comply, the responsibility and the obligation is on the candidate, but under this amendment the obligation and the responsibility falls on the individual who made the contribution. Whereas, under the terms of the bill right now, we can violate the terms of the act, and we can violate it to the tune of $100,000, the penalty under here is not anywhere in the nature of $100,000 but, in this instance, for the failure of the individual to comply with this, his penalty, if he does not receive his check back, is 100 percent of his contribution. That seems to me, under those circumstances, to be an excessive penalty on the individual who wishes to make a contribution to an individual's campaign.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. I yield myself 3 minutes.

Mr. President, this bill, as amended by the Mondale amendment, recognizes a legitimate public interest in disclosure of economic interests of individuals who contribute more than $100. It says that the campaigns receiving such contributions are required to report the occupation and principal place of business of the donor. It requires reports, but then does not provide a good method of enforcement. It does not place any duty on the individual to report his occupation and principal place of business, and it says, in substance, that if the campaign committee wishes, it can go ahead and use the contribution, without making the report.

What I am suggesting is that, to put some teeth in the bill and to provide the candidates with a greater incentive to identify the occupations of the donors, there ought to be an obligation to turn the contribution over to the Government if the information is not reported.

It has been said that this would place an undue burden on the individual. It is a system with which I have lived voluntarily, and without any serious inconvenience either to my own campaigns in the past or to my own donors.

It seems to me that if an individual is offended by this requirement that he report his occupation, that gives more reason for requiring disclosure of that economic interest.

If it would make the chairman and the ranking minority member feel any better about this amendment, I would be glad to propose a further modification, to the effect that in the event any person whose contribution has been turned over to the United States pursuant to this section presents the Commission with evidence that he is the contributor, the Commission shall transfer to such person an amount equal to the amount of the contribution. That would eliminate the concern expressed by the ranking minority member, that innocent people giving a contribution to a candidate will find out later that, in fact, it went to the Government. If that is the concern, it could be put to rest by such a modification.

Would the chairman and the ranking minority member accept the amendment with this further modification?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOK. I yield myself 2 minutes on the bill.

I say to the distinguished Senator from Illinois that he is going to make this commission a body that not only is going to make a determination of the report but also is going to make a determination as to whether the candidate has complied with the respective regulations of this bill; and on top of that, he is going to give them the burden to sit in judgment, to sit basically as a trial panel, to make a determination, first, whether the individual did this with premeditation, that he did not intend to put down his occcupation, so that they accuse him of having violated the law, and his money goes to the Federal Government, and this question will be determined by the commission.

I can only say to the Senator from Illinois that we can rationalize all these things and try to make something better out of what is; but it seems to me that when we get into this we have to make a determination in this bill as to whether the commission would have the authority to function against a contributor who would come under the terms of this requirement: whether this bill lends itself to the establishment of the commission for the purpose of making a determination as to whether the candidate has complied.

Now we are saying that the commission is going to be broadened to the extent that they make a determination as to whether the individual complied.

I think the Senator from Illinois will admit this: Let us say that an individual—a wife, a husband, anyone else—makes a contribution and finds out that in making a contribution of $150 to a candidate because he really believes in him, he did not mention his occupation or his address. We are talking about 50 States. Let us say the headquarters of a Presidential candidate is in New York or Florida and this individual is from Alaska and that they cannot find out where he is. Then the individual finds that his money is escheated to the U.S. Government. How, then, is he to plead his case? Where does he plead it? In Alaska? No. Apparently, he has to come before the commission. He has to spend $600 to travel to and from Alaska. When he pleads his case and they decide that he made a logical error and that he should get his money back, bureaucracy will give him his $150 back about 2½ years from now.

It seems to me that we really should not be called upon to have a file this thick on an honest individual who made a $150 contribution to a Presidential campaign whose headquarters is in New York City and he failed to comply with

all the requirements of this law. I think we do him a tremendous injustice if we escheat his money to the Federal Government when he did not intend the money to go to the Federal Government, in the first place.

I do not think this adds a great deal to this amendment, other than a great deal more confusion.

Mr. STEVENSON. Mr. President, this requirement that the occupations of donors of more than $100 be reported has a loophole in it large enough to drive a truck through. It says reports are required, but then it does not effectively require the reports.

It recognizes that the public does have a legitimate interest in the economic interests of donors, but it does not require that donors report their occupations. It says to the candidates, "If you cannot report, you do not have to. Just go ahead and use the money." That does not provide much incentive for reports by candidates of the occupations of the donors of large campaign contributions—contributions over $100.

I do not wish to prolong the debate. I do not intend to ask for the yeas and nays. If the chairman and the ranking minority Member are prepared to yield back their time, I will yield back my time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois, as modified.

The amendment, as modified, was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

What is the will of the Senate?

Mr. CANNON. Mr. President, I do not know whether or not there are other amendments to be called up. So far as the manager of the bill is concerned, I am ready to go to third reading of the bill at any time. We do have an amendment pending that is to be voted on, by a yea and nay vote, at 2:30.

The PRESIDING OFFICER. That is correct.

Mr. CANNON. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. —. Title III of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new section:

"USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

"SEC. —. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his campaign expenses, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of Federal office, may be used by that candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, or may be contributed by him to any organization described in section 170(c) of the Internal Revenue Code of 1954. To the extent any such contribution, amount contributed or expenditure thereof is not otherwise required to be disclosed under the provision of this Title, such contribution, amount contributed or expenditure shall be fully disclosed in accordance with regulations promulgated by the Commission. The Commission is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section."

Mr. JOHNSTON. Mr. President, this amendment is introduced on behalf of myself and the Senator from Georgia (Mr. NUNN) and the Senator from Idaho (Mr. MCCLURE). All three of us have seen a real problem in the present law. The amendment is to cover the obverse situation from the Byrd amendment. The distinguished Senator from West Virginia introduced an amendment stating that campaign funds could not be used for personal purposes. It was an excellent amendment that made perfectly clear that no excess campaign funds or side funds, as they are often called, could be used for personal purposes of candidate or office holders after election. However, the amendment did not cover the obverse side and tell the incumbent Federal office holder what he could use those funds for.

This amendment would provide, first, that excess funds or other amounts contributed to an individual for purposes of supporting his activities as a holder of Federal office may be used by the candidate or individual to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, or may be contributed by him to a charitable organization.

The amendment does a couple of other important things. First, it requires a full disclosure of all amounts spent, in detail, and the purposes of those expenditures to be made. It also does something else that is very important, and that is it authorizes the Commission to promulgate rules and regulations which may be necessary to carry out the purposes of this amendment.

It is very important, Mr. President, that the Commission be authorized to make these rules to give us guidelines as to what the money can be spent for.

I was amazed when shortly after I arrived in the Senate I found there were no Federal funds to make the revision programs to report to the people back home. No Federal funds were available. But I was advised that excess campaign funds, by those lucky enough to have them, could not be used for that purpose. It is a part of the job of being a Senator but those excess funds cannot be used for that. A Senator would have to set up a separate fund if he were going to have programs back home, unless he were wealthy enough to be able to pay for those costs out of his own pocket.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. NUNN. I think this is an excellent amendment and I hope it will begin to clarify some of the obscure provisions of the law we are laboring under.

I wish to comment on the last observation of the Senator. We have been advised exactly the opposite, as far as television and radio are concerned, and extra newspaper advertisements. Although there are no Federal provisions we have been advised you can take them from political contributions, and we have been advised on different occasions different things about expenses when a Senator takes someone to lunch and loses the grabbing contest and ends up with the bill; when we have constituents here, here on constituent business from Georgia, whether we can take that out of a political fund. We have had so much conflicting advice that I think the Senator is performing a real service in trying to clarify this matter.

No one wants to use these funds for personal expenses but many items are not personal expenses, that are not reimbursed by the Federal Government, and there is no provision for, that most Senators are using these funds for, and there is a question about the legality of it.

I commend the Senator and I join him so that we can begin to clarify this and get written opinions on what the law is, what the regulations are, and we will have no doubt. I think that this will go a long way toward eliminating the gray area we operate in now.

Mr. JOHNSTON. I thank the Senator. I point out that in my judgment all these expenses that are ordinary and necessary to the business of being a Senator ought to be provided by the Government so that we should not have to rely on campaign funds or side contributions. Until we reach that point, we at least need clarifying language as to what we can spend money for, and rules to implement that language.

Mr. METCALF. Mr. President, will the Senator yield for a couple of questions?

Mr. JOHNSTON. I am glad to yield if I have the time.

Mr. METCALF. If a Senator had excess campaign funds, under the Senator's amendment would he be allowed to invest those in Government bonds so they would draw interest until the next campaign?

Mr. JOHNSTON. No, this amendment does not provide for that. I understand that is not otherwise allowable, and this would make no change in the law. It would simply deal with those expenses necessary to his job as a Senator.

Mr. METCALF. He would have to spend the funds? He could not save them and hold them over?

Mr. JOHNSTON. This amendment would neither permit it nor prohibit it.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. CANNON. The Senator responded with respect to his amendment. Under the Byrd amendment, it is broader than that and says, in addition:

That notwithstanding the provisions of this section, any surplus or unexpended campaign funds may be contributed to a National or State political party for political purposes, or to educational or charitable organizations, or may be preserved for use in future campaigns for elective office, or for any other lawful purpose.

So that, under the Byrd amendment, the answer to the Senator's question would be "yes."

Mr. METCALF. Would that be changed, then?

Mr. CANNON. No; that provision would not be changed by the amendment of the Senator.

Mr. JOHNSTON. That is correct.

Mr. METCALF. Under the Byrd amendment, it would not be changed. Part of those campaign funds could be contributed to a State committee or some other committee for the support of an election organization; is that correct?

Mr. CANNON. The Senator is correct.

Mr. JOHNSTON. The amendment is in no way inconsistent with, but is supplementary to, the Byrd amendment.

Mr. METCALF. I thank the Senator.

Mr. CANNON. The Senator from Louisiana's amendment would make clear what is already intended under rule XLII, subsection (3), but it would clarify that point. I know there has been some need for clarification, one of the reasons being it was difficult to get an advisory opinion from the Commission. We hope, under the provision written in the bill, it will be possible for persons to have advisory opinions from the legal division of the Commission.

Mr. JOHNSTON. That is right; not only advisory opinion, but rules as to what can or cannot be done.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. NUNN. Is it not a fact that we have asked the Ethics Committee for rulings and we cannot even buy Coca-Colas and coffee to serve our constituents in our own offices and call them expenses, even though they are not reimbursed by the Federal Government?

Mr. JOHNSTON. I am told that is right.

Mr. NUNN. That is an absurdity. Expenses not to be reimbursed by the Federal Government will be permissible under the Senator's amendment?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. The Senator intends that amounts which are received by a candidate as contributions that are in excess of any amount necessary to defray his campaign expenses may be used by that candidate or individual to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office?

Mr. JOHNSTON. That is correct.

Mr. DOMENICI. Do I understand the Senator means he or I would have such contributions occurring in and after an election, in our own right, for the purposes stated here?

Mr. JOHNSTON. That is correct, limited to the activities that are necessary in connection with that function.

Mr. DOMENICI. And subject to the rules of the Commission in the future?

Mr. JOHNSTON. That is right, subject to the rulemaking power and subject to the obligation to fully disclose everything that is both collected and spent.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana, proposed for himself and other Senators (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to vote on the amendment of the Senator from Maryland. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is absent on official business.

The result was announced—yeas 13, nays 79, as follows:

[No. 352 Leg.]

YEAS—13

Beall	Mathias	Proxmire
Case	McIntyre	Schweiker
Hart	Nelson	Stevenson
Huddleston	Packwood	
Mansfield	Percy	

NAYS—79

Aiken	Church	Haskell
Allen	Clark	Hatfield
Baker	Cook	Hathaway
Bartlett	Cotton	Helms
Bayh	Cranston	Hollings
Bellmon	Curtis	Hruska
Bennett	Domenici	Hughes
Bentsen	Dominick	Humphrey
Bible	Eagleton	Inouye
Biden	Eastland	Jackson
Brock	Ervin	Javits
Brooke	Fannin	Johnston
Burdick	Fong	Kennedy
Byrd, Harry F., Jr.	Fulbright	Long
	Griffin	Magnuson
Byrd, Robert C.	Gurney	McClellan
Cannon	Hansen	McClure
Chiles	Hartke	McGee
McGovern	Pell	Symington
Metcalf	Randolph	Talmadge
Mondale	Ribicoff	Thurmond
Montoya	Roth	Tower
Moss	Scott, Pa.	Tunney
Muskie	Scott, Va.	Weicker
Nunn	Sparkman	Williams
Pastore	Stafford	Young
Pearson	Stevens	

NOT VOTING—8

Abourezk	Goldwater	Stennis
Buckley	Gravel	Taft
Dole	Saxbe	

So the Mathias-Stevenson amendment was rejected.

Mr. COOK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COOK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, line 25, after the word "supersede" add, "and preempt".

Mr. COOK. Mr. President, for the benefit of those who have been concerned in the past about having to file all of our Federal and regulatory forms, and are concerned as to whether they have to file State forms, and whether they have to be coexistent, at the bottom of page 48, we have a provision that reads:

SEC. 403. The provisions of this Act, and of regulations promulgated under this Act, supersede any provision of State law with respect to campaigns for nomination for election, or for election, to Federal office (as such term is defined in section 301(c)).

Now, "supersede" is a word of art. So that we may have no question about it, this amendment adds "and preempt" any provision of State law with respect to campaigns for nominations for election to Federal office.

I think this totally clarifies the matter. It does not leave it up in the air as to interpretation of the word "supersede," and I think we have made it very clear, with the words "supersede and preempt," and I move the adoption of the amendment.

The PRESIDING OFFICER. The Senate will be in order.

Do Senators yield back the remainder of their time?

Mr. COOK. I yield back the remainder of my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK).

The amendment was agreed to.

Mr. COOK. Mr. President, I ask unanimous consent, for and on behalf of the distinguished Senator from Kansas (Mr.

DOLE), to submit his remarks relative to the bill for printing in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR DOLE

I certainly commend the efforts of those Senators who have spoken on the subject of election campaign reform. As one who supported the enactment of the Federal Election Campaign Act of 1971, I certainly believe there has been a clear demonstration of public support for efforts to put campaigns for public office on a high plane which will assist the voters in making reasoned, informed choices for their elected representatives. This support is well placed. The history of political campaigning—like the history of business, medicine, labor organizations and many other areas of human endeavor—discloses ample room for improvement.

I believe the 1971 act took many worthwhile steps toward establishing reasonable guidelines for those conducting Federal campaigns, identifying serious abuses of the elector process, and illuminating the financial dealings of contributors and candidates. The new act filled a great void in the law, for its predecessor, the Corrupt Practices Act, was certainly one of the most loophole-ridden statutes ever enacted. As with any new system, the mechanisms and processes established by the 1971 act had some rough edges and early deficiencies which were disclosed during the course of the 1972 campaign. The law is in need of improvements and refinement, and certain areas were clearly marked out for additional reform and legislative initiative.

SOME DOUBTS

I have been a consistent supporter of election law reform and support this year's effort to pursue it. However, I have some doubts that S. 372 as it stands today serves the fullest interest of achieving real reform. In fact, as the distinguished Senator from Kentucky [Mr. COOK] indicated on the floor last week, all that these changes may eventually mean is that anyone who runs for Federal office—win, lose or draw—will wind up in jail. I hope we have not produced such a result, but we have certainly added—along with many good and constructive features—a great deal of complex, highly complicated and hard-to-understand provisions to an already involved statutory framework.

Two points in particular raise serious questions in my mind. One deals with the conflicts between the first amendment and the limits placed by the bill on individual contributions and campaign spending. The second concerns the wisdom of pursuing what might be called a "one man—one dollar" philosophy of political campaigning.

CONFLICT WITH FIRST AMENDMENT

The 1971 act took the approach that disclosure of campaign finances was the most important and constructive goal to be pursued in campaign law reform. The guiding belief was that if a voter knew how much candidates were spending and the sources of their contributions he could then decide how to vote by taking this information into account along with the candidates' programs and positions on the issues.

It was recognized that the communications media, including broadcasting, presented a special case where one candidate could gain an unfair advantage over an opponent by monopolizing available time, space and access, through huge expenditures. Therefore, specific limits were set on amounts which a candidate can spend in these areas in primary and general elections. While clearly touching areas relating to the first amendment's freedoms of expression, the Congress felt—and quite correctly, I believe—that fairness and the public interest required some restraint on any candidate's ability to overwhelm the communications media in an age when they, especially radio and television, are of such great importance in the electoral process.

EQUAL TIME PROVISION

I, personally, felt the logical corollary to this limitation on broadcast expenditures would have been to provide an exemption from the so-called "equal time" provision of the Federal Communications Act for major party candidates for all federal offices. Such an exemption would have freed broadcasters from the requirement to furnish all candidates—even those of splinter parties or those without any serious possibility of receiving any substantial percentage of the vote—with second-for-second broadcast time equality.

Thus, greater opportunities would be provided for debates between major candidates for President, Senator and Congressman—in the style of the Nixon-Kennedy debates of 1960. Unfortunately, the equal time rule was not repealed in the 1971 act; however, I am pleased that the Senate has provided an across the board repeal of the equal time provision in S. 372. I consider it one of the most important and best features of the bill and believe it will provide the American voting public with a unique opportunity to make a sound assessment of the positions and proposals of the candidates in 1974.

But placing limits on the total expenditures a candidate may make or the total amounts an individual can contribute to support a candidate go far beyond the question of limiting "big money" influence in our political process; it reaches into the basic guarantees of the first amendment to freedom of speech, freedom of the press and freedom of association.

I believe the question of money in politics is one which requires very careful study and watchfulness. But the philosophy of the Congress in 1971 still seems, to me, the most sound and acceptable way to deal with it. Let the people know where a candidate gets his contributions and what he does with them, and then let the people express their approval or disapproval in the voting booth.

I do not believe we can go further in limiting and regulating the first amendment's guarantees without overstepping the Constitution's limits.

ADVANTAGE TO INCUMBENTS

In addition, I seriously doubt that a rule of "one candidate—one dollar" is good public policy. To put it quite simply, any imposed financial equality between candidates would create a lopsided advantage for any incumbent President, Senator or Congressman. If we are going to say that an incumbent's opponent can only spend X dollars to defeat him, we are guaranteeing the built-in advantage of any officeholder who is running for re-election. I do not know if a dollar figure has been placed on the value of incumbency, but it is a fact of political life that all other things being equal you have to out-spend an incumbent to beat him. Of course, equal financing might be of some importance in a campaign between two non-incumbents, but that type of race is the exception rather than the rule in the great majority of Senate and House contests—and in most of the Presidential races, too.

And the same rule applies in States and districts where one party holds a substantial advantage in registration and voter turnout. A candidate from the minority party would have to count on offsetting his advantage by outspending his opponent. And whether you are talking about bucking some big city machine or an intrenched rural establishment, the only chance a minority candidate has of mounting a creditable threat to his opponent is by pouring enough money into the race to get his message to the voters.

So, I do not see these efforts directed at achieving financial equality as worthwhile steps toward reform. They are questionable on constitutional grounds, and they clearly point the way to placing an unquestioned disadvantage on challengers to incumbent officeholders and on minority party candidates in heavily Democratic or Republican States and districts.

CONCLUSION

Two commitments in Kansas today—funeral services for W. L. White, the former editor of the Emporia Gazette and ceremonies at the Eisenhower Center in Abilene marking the 20th anniversary of the Small Business Administration—prevent my participation in the vote on final passage of S. 372. If present, however, I would cast my vote in favor of the bill with the hope that bill's weaknesses, deficiencies and questionable features can be improved upon by the House and lead to a final bill which will serve the broadest interests of reform in the process of electing our highest Federal officeholders.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, as far as I know, there are no other amendments to be called up. I do not want to preclude any Senator from calling up amendments.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is the bill subject to debate after third reading?

Mr. CANNON. The bill is subject to debate after third reading, I might say to my colleague, provided that the debate is concluded before 3:30 p.m. There is a unanimous-consent agreement that the bill will be voted on at or before that time.

Mr. McCLELLAN. I have no objection to third reading, but I do want to ask some questions about it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 372) was ordered to be engrossed for a third reading, and was read the third time.

Mr. CANNON. Mr. President, I yield the Senator from Arkansas such time as he may require.

The PRESIDING OFFICER. Before the Senator proceeds, the Senate will be in order. Senators will take their seats.

The Senator from Arkansas may proceed.

Mr. McCLELLAN. Mr. President, I only wanted to inquire about one provision of this bill. I call the attention of the distinguished manager of the bill, on page 34, to subsection (d) at the bottom of the page. Its provision reads as follows:

Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this title, and of sections 602, 608, 610, 611, 612, 613, 614, 615, and 616 of title 18, United States Code. Any violation of any such provision shall be prosecuted by the Attorney General or Department of Justice personnel only after consultation with, and with the consent of, the Commission.

If I interpret this correctly, any violation of this title or any violation of the

sections of the statute specifically referred to cannot be prosecuted by the Department of Justice except and until after it has consulted with the commission and obtained its consent to enforce the law and to bring prosecutions thereunder. If I interpret this section correctly as it reads, that seems to me to be the effect of it.

Mr. CANNON. The Senator is absolutely correct. That is not only the effect of it, that is the intention, as expressed in the language.

The Supreme Court has said on many occasions that Congress has the right, to protect the elective process, to take such actions as may be necessary. All of these sections that are referred to, and other sections which I think have perhaps been added pertaining to the protection of the elective process, do relate to that precise subject, and it was the intention of the committee to give the primary jurisdiction to the commission established under this Campaign Reform Act.

I would point out to my distinguished colleague that in the last election that was one of the areas that was subjected to a great deal of criticism, because of the fact that many, many violations—thousands of violations—were referred to the Department of Justice, and no action was taken. No action has been taken to date on many reported violations that were referred to the Department.

Mr. McCLELLAN. Well, this does not compel action any more than the law compels action now. It simply prevents an Attorney General from doing his duty under the law as he sees it, unless he gets permission of a commission to do it.

Mr. CANNON. We certainly would not think that the commission would withhold authority if they desired to act in that field.

Mr. McCLELLAN. And we would not think that an Attorney General would fail to do his duty.

Mr. CANNON. He did in the last election.

Mr. McCLELLAN. If he did, so may this commission. I do not think we have any assurance one way or the other, except that we are setting up a commission here, now, which prohibits the Attorney General from enforcing the law and doing his constitutional duty unless he gets the consent of that commission.

I think it is unconstitutional, and if this is a precedent, we can set up a similar commission for every department and agency of the Government—I am talking about constitutional offices—and say that they cannot do their duty unless they get the consent of some commission.

I think this is bad legislation. I think it is unconstitutional. I do not think we can say to the Attorney General, not only this one but the next one, "You cannot carry out your oath of office until you get the consent of some commission."

I just wanted to point out that this is, in my judgment, a fatal provision of this bill.

Mr. CANNON. Heretofore we have taken similar actions, and given the primary enforcement responsibility to some other independent agencies.

Mr. McCLELLAN. Let me ask the Senator if we have ever done that before in the area of enforcement of the law, in connection with a prosecution of a violation of the law.

Mr. CANNON. It is my understanding that we have.

Mr. McCLELLAN. Can the Senator cite such an instance, where the Attorney General could not act to enforce the law without the permission of some other agency?

These are criminal statutes we have here, and we are saying that a constitutional officer, the Attorney General, whose duty it is under the Constitution to enforce the law, to prosecute violators, cannot perform his duty until he gets the consent of this commission.

Mr. CANNON. Mr. President, I would say that in the hearings on this matter, the question was raised concerning the constitutionality of enforcement powers within an independent election commission. The Senator from Rhode Island (Mr. PELL) received a letter during the course of the hearings, a part of which is quoted as follows:

> As the commission's structure is similar to that of existing independent agencies of the executive branch, the judicial precedents defining the authority of these agencies is extremely relevant.
>
> Independent agencies have been found to have the constitutional authority to enforce the laws under their jurisdiction. For example, the Federal Trade Commission from its inception in 1914, has exercised law enforcement functions. In *National Harness Manufacturer's Assoc.* v. *Federal Trade Commission*, 268 F. 705 (6th Cir. 1920), its investigation and prosecution of statutory violations was held to be a valid exercise of executive and administrative authority and did not violate Articles I and II of the United States Constitution. Additionally, the Supreme Court has held that the Federal Trade Commission may institute proceedings, follow up decrees and police their obedience in the area within its jurisdiction.

Mr. McCLELLAN. I think the Senator is correct, that Congress can set up an independent agency if it desires to give it some law enforcement power, but here we set up an independent agency to take away from the Attorney General the constitutional powers and duties that he has under the Constitution and his oath. The Senator is saying that he cannot exercise those functions and perform those duties that he has taken an oath to perform, until and unless he gets the consent of a commission.

Mr. CANNON. I would say that that same issue would be raised with respect to the Interstate Commerce Commission.

Mr. McCLELLAN. Those are independent agencies. They are not constitutional agencies. Their powers, or whatever they are, derive from the statutes.

Mr. CANNON. This will be an independent agency and this is the statute that will give the agency the authority.

Mr. McCLELLAN. The Senator is giving this agency the authority to take away the constitutional authority of an office to function.

Mr. CANNON. No, we are not giving them the authority. We are doing that by legislation. We are taking that away by legislative action.

Mr. McCLELLAN. The Senator is trying to place it in a commission rather than a constitutional officer under the law, under the Constitution and his oath. I do not believe he can do that. I may be wrong.

Mr. CANNON. I would believe that the Department of Justice's constitutional authority with respect to violations of the law, that we are giving authority to the Federal Trade, the Interstate Commerce Commission, the FAA——

Mr. McCLELLAN. I suggest to the Senator that you have not given the Federal Trade Commission the power to keep the Department of Justice and the Attorney General from enforcing the law. Nowhere have we done that.

Mr. CANNON. I am not certain, without the act before me, whether that is specifically preempted in the act. I believe it is, but I cannot say of a certainty.

Mr. McCLELLAN. I raise this question because I believe we are making a great mistake here. I can be wrong, of course, but I discovered that and I felt that we were undertaking to take away the constitutional powers of the Attorney General and placing them in a commission, whether an independent agency or not, and I do not think we can do that under the Constitution.

Mr. AIKEN. Mr. President, suppose that a candidate for Congress spent $100,000 in securing the nomination to be the candidate for the Democratic Party in any State where the limit for primary expense is $125,000, and the Republicans of that same State, not desiring a conflict, decided they wanted to put him on their ballot, too, and they spent $50,000 persuading enough members of their party to write his name in on the primary ballot to give their nomination, too. Since this candidate would have the nomination of both parties, does he have to report the expenses of both parties in making out his report of primary expenditures?

Mr. COOK. Mr. President, I would answer that by saying, "Yes," he would, they would be double, because under the Constitution, a candidate on the ballot of one party, must go on the ballot of the other party, in the situation the Senator describes.

Mr. AIKEN. If he spent $100,000 to get the Democratic nomination and the Republicans spent $50,000, then he has exceeded the limitation, has he not?

Mr. COOK. No, he has not.

Mr. AIKEN. He can spend $125,000 in either party, or both?

Mr. COOK. May I say to the Senator that technically he would not have violated it. If we really look at it, we will see that this constitutes the individual as a candidate and if he becomes a candidate of one party, he has to go on that ballot—at least in my State he does—and even if he is a candidate of the other party, he has to go on the ballot as a candidate for that party. Strange as it may seem, and as novel as it may seem, his name has to appear on the ballot in both places. Therefore, he would have to make a report of his expenditures as a candidate of X party and also as a candidate of Y party.

Mr. AIKEN. But if both parties spent $150,000 or $175,000 getting him on their ballots as their candidate, then has he not exceeded the limitation which is per-

mitted a candidate in a primary election?

Mr. COOK. I would say, Senator, in all fairness, the answer has got to be no.

Mr. AIKEN. Well, I was just reading some of the material that happened to be on my desk here and it would seem to me that a total expense of over $125,000 would be a violation.

Mr. COTTON. Mr. President, will the Senator from Kentucky yield for one more question on that point?

Mr. COOK. I yield.

Mr. COTTON. The question of the distinguished Senator from Vermont (Mr. AIKEN) is predicated on the assumption that there are only two parties, the Democratic and the Republican Parties. I seem to recall that——

Mr. AIKEN. And the Independent Party.

Mr. COTTON (continuing). When the distinguished senior Senator from New York first came to the Senate, or to the House, he was a candidate of the Republican Party and I think a party called the American Labor Party. Now all we have to do in order to up our expenditures, it seems to me, would be to run for the Republican and the Democratic nominations and also run for the nomination of a newly organized third party under this. Is that the Senator's interpretation? Or am I wrong?

Mr. COOK. That may well be true, but as we evaluate it, it is going to be the responsibility of that individual, if he so desires to do that. He has got to win the nomination of that respective party. Otherwise, we are proliferating the bill to the extent that we are saying not only would the candidate attempt to do that in an effort to get around the bill, but he would actually enter into an agreement or collaboration with the Republican and Democratic parties in the respective States, as set forth by the Senator from Vermont.

In fact, I am not so sure but that, somehow or other, we may try to do that as individuals, but I do not think we can subjugate the respective Republican and Democratic Parties which are the major parties, that they will lie down and watch a candidate be a candidate for both parties in order to get around to the provisions of this bill. That would be highly unlikely.

Mr. PASTORE. Mr. President, I should like to address myself to the question raised by my distinguished colleague from Arkansas (Mr. MCCLELLAN).

What we need to do is look at page 33 of the bill which spells out the powers of the Commission. I must say that it was the deliberate purpose of the committees to give the power to prosecute and to bring action to this Commission. That seems to be the intent of the act. What we were saying here is, that while we did not want to trespass on the authority of the Attorney General, the fact still remains that insofar as that power pertains to this particular bill, the Attorney General would be more or less prohibited from acting because we would have double action unless there was consultation with the Commission. We spelled it out on page 33 of the bill which says clearly:

> to initiate (through civil proceedings for injunctive relief and through presentations to Federal grand juries), prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title and of sections 602, 608, 610, 611, 612, 613, 614, 615, and 616 of title 18, United States Code.

Because the office of Attorney General is in fact a political office, because so many complaints have been made, and because not a sinble action has ever been brought or taken, there has been a tremendous amount of feeling that this power should be reposed in the Commission. That was more or less the hiatus in the last bill we passed, and we are trying to cure it in this bill.

It is true that we are in a way taking some power away from the Attorney General's office. But the power that the Attorney General's office enjoys was delegated by Congress; and Congress can modify it, improve it, add to it, and subtract from it. In this particular instance, we have subtracted from it.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. McCLELLAN. I think we interpret it correctly. The Senator is detracting from it. He is trying to take away from the Attorney General the power to prosecute unless he gets the consent of this agency.

Mr. PASTORE. In this instance, on the enforcement of this election bill.

Mr. McCLELLAN. They have the power themselves to prosecute. We have given it to them.

Mr. PASTORE. The Senator means the Commission?

Mr. McCLELLAN. The Commission.

Mr. PASTORE. We are giving it to them.

Mr. McCLELLAN. But then the Senator takes away that power from the Attorney General.

Mr. PASTORE. In other words, two agencies would have the same power at the same time to do the same thing.

Mr. McCLELLAN. What the Senator is complaining about is that the Attorney General in the past has not acted.

Mr. PASTORE. That is correct.

Mr. McCLELLAN. So the Senator cures that by giving the power to the Commission, and then he says, "You cannot prosecute unless you get our consent."

Mr. PASTORE. "You cannot prosecute under this bill."

Mr. McCLELLAN. The Senator is taking it away from them.

Mr. PASTORE. That is correct.

Mr. McCLELLAN. I think it is unconstitutional.

Mr. PASTORE. I do not think it is unconstitutional, because Congress can give it and Congress can take it away.

Mr. McCLELLAN. Except where the Constitution provides otherwise.

Mr. PASTORE. The Constitution says nothing about the power to enforce this law.

Mr. McCLELLAN. He takes an oath.

Mr. PASTORE. The titles we have here are not constitutional titles. This Criminal Code was passed by Congress. The Criminal Code is there because Congress put it there.

Mr. McCLELLAN. But he takes an oath of office to enforce this statute.

Mr. PASTORE. Not this statute—to enforce the laws of the land, and this is going to be the law of the land.

Mr. McCLELLAN. Part of the law of the land.

Mr. CANNON. The law of the land is that he does not have primary jurisdiction in this case.

The Senator said that the office of Attorney General is a constitutional office. I cannot find that in the Constitution. The office was created by statute. I read from one of the authorities that was given to the committee in its hearings:

> In fact, the responsibility to institute civil actions and criminal proceedings on behalf of the United States was not vested in the Attorney General for the first 72 years of the Nation's constitutional history.

That does not sound as though he is a constitutional officer. I read further:

> Under the Act of September 24, 1789, 1 Stat. 73, 92, that power was vested solely in the "attorney for the United States in that district . . ." The Attorney General was given no supervisory power over such district attorneys; he could merely "prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned."
>
> The Attorney General was not given supervisory powers over district attorneys until enactment of the Act of July 31, 1861, 12 Stat. 285. Not until almost midpoint of this 72-year period were they subjected by statute to the direction of any executive officer, and then only to a Treasury Department official in connection with certain cases involving revenue matters.

It is quite clear, Mr. President, that the Attorney General is not a constitutional officer, under those provisions. He takes an oath to support and defend the Constitution of the United States, just as we do. But we can say by legislation, as we are doing here, what his duties are and what they are not.

Mr. PASTORE. I doubt it is a constitutional office.

The fact remains that if the Senate passes this bill and the House passes the bill and the President signs it, that is the law. We make the law, we change the law, and we give the power to the Attorney General to enforce the law or not to enforce it, according to the acts of Congress.

Mr. CANNON. I say to the Senator that the office of Attorney General was created by title 28, United States Code, by an act of Congress.

Mr. PASTORE. That is true.

Mr. CANNON. All we are doing here is saying in what he shall or shall not have primary jurisdiction, and we give him only secondary jurisdiction in this particular act.

Mr. DOMENICI. Mr. President, will the Senator yield for two questions?

Mr. CANNON. I yield.

Mr. DOMENICI. By way of clarification, let me use my State as a hypothetical situation. Under this law, in a general election for the U.S. Senate, it is my understanding that the candidate can spend or cause to be spent in his behalf $175,000. What concerns me is this: Suppose the Republican Party does some advertising of its four or five candidates, rents billboards or runs newspaper adver-

tisements, let us say, with their Senate candidate, their presidential candidate, Attorney General, and Governor, and they pay for this, and it says, "The Republican Party says 'Vote for these four'."

Two questions about that. Is my understanding correct that under this law, the Commission could indeed pass rules and regulations that would allocate a portion of that to the Senate candidate? Is that true?

Mr. CANNON. Under the present law, there would be an allocation. There is one slight provision, one slight correction, and that is that the amendment of the Senator from Rhode Island today, which was adopted, provides that not more than a thousand dollars could be spent without having the approval of the candidate and having it charged to him.

It is conceivable that some committee, some group of persons, could spend up to the extent of $1,000 or less than $1,000 without having either the approval of the candidate or without having it charged to his overall limit. I think that is a correct interpretation of the Senator's amendment.

Mr. PASTORE. The answer is very simple. It is true that the State could rent the billboard and in no instance could the allocation of that be more than a thousand dollars, without the Senator's certificate. Once he certifies it, it is charged to him. But they can do this up to a thousand dollars and it is prorated to the Senator.

Mr. DOMENICI. The second question has to do with the hiring of staff.

Let us add to my hypothetical situation that the State has no limitation on how much a Governor can spend, so the Governor is not burdened by this, and they raise a half million dollars for the Governor's candidate. We are governing ourselves by this law, but he hires 15 people on his staff for the last 2 months of the campaign and is paying them to work. While they are working, they are working for the Senator, too.

Could the Senator address himself to what this law says about that?

Mr. PASTORE. If it could be prorated, it would have to be prorated. I say to the Senator, frankly, that the purpose of this measure is merely to give the Senator the absolute control of his own campaign.

I doubt very much that if the Governor hires a staff, they are going to start doing work for the Senator. They may throw the Senator's name in once in awhile; but if the Governor is paying them, they are going to be working for him. If they perchance begin to work for the Senator, whether it be clandestinely or not, it is a matter of proof.

The fact remains that if it is subterfuge, the Senator would have to be charged for it. In other words, the Senator could not go to the Governor and say, "Why do you not put 15 people on your staff to work for me?" It would be a subterfuge, under the law, and it would be chargeable to the Senator.

Mr. DOMENICI. I understand. However, I would disagree with the Senator that this does not happen. A Governor's candidate has staff people out working. They work for perhaps an entire ticket, including the Senator. Perhaps they are even instructing pollworkers and campaign people and have the Senator's paraphernalia with them and are on the payroll—the Governor candidate's payroll, not the Governor. If the Senate candidate knows this, it could be direct effort in his behalf for which money is being expended out of another committee, could it not?

Mr. PASTORE. It would not be chargeable to the Senator any more than if his wife went out and said, "Vote for my husband." It is when it comes down to spending money that this bill applies. That is what we are talking about, spending money. If a Governor hired 15 people to campaign for him and in the process of going around working for the Governor, at the headquarters talking to the Governor, they say, "Throw in a vote for DOMENICI," I do not think there is anything to worry about.

Mr. DOMENICI. Mr. President, does the manager of the bill concur?

Mr. CANNON. I think it is correct, unless you came under the terms of the Pastore amendment.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. CANNON. I will say to my colleague, as well, we have given the commission this authority:

(d) The supervisory officer shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

So we have given them authority to draft rules and regulations.

Mr. DOMENICI. I thank the Senator.

Mr. CANNON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, I briefly wish to express my support for the Federal Election Campaign Act which we will vote on today. The Senate has gone a long way in this legislation toward achieving the goal of Federal elections which are fairly controlled and openly conducted.

The limits placed by this bill on campaign contributions and expenditures will protect the interests of both the candidates and the voters who participate in our electoral process. No man seeking election will be forced to compromise his views in order to finance his campaign and no voter bestowing his trust upon a candidate need worry about those who seek favors through their contributions which they could never win by their ballots alone. In effect, we are delivering upon the promise of a participatory democracy where a man's ideas—not the size of his bank account—are the most important factor in an election and where every fellow running in an election has the assurance that the same ground rules will apply equally to the other candidates in the field.

Now I am certainly not naive enough to believe that this legislation marks the end of campaign abuses and dishonest practices.

I may be a trusting man but as Mr. Dooley once said:

Trust everybody, but be sure and cut the cards.

We have taken a long step here toward better elections but this bill will have to be followed up with effective enforcement.

Mr. President, the air of cynicism about Government and the distrust of public office holders which is growing in this country today has to be turned around. The people will tolerate abuse of their trust only so long before they take steps to remedy the abuse. We will celebrate the Bicentennial of just such an event in about 3 years and I would like to think that the promises of 1776 will be intact and renewed for that occasion by what we are doing here today. I commend the Senator from Nevada for the excellent service he has performed in bringing this legislation before us and I urge its adoption by the Senate.

Mr. HUMPHREY. Mr. President, the recent public revelations of the Watergate scandal have documented the influence and the ills of big money in American politics.

Even if a candidate accepts large contributions in good faith, the tinge of suspicion and the tinge of doubt as to what that candidate had to promise—even if there were no quid pro quo—seems to be ever present.

Mr. President, the electoral process in this country is too precious, too important to be decided on the auction block. Big money, large private contributions, and indeed, the need of a candidate to seek out the private contributions ought not to be the key to elections. There are more important elements in the judgment of a candidate's fitness for public office that the amount of money he can raise and spend.

Today, the Senate has taken an important step toward limiting the influence of big money in politics. The Federal Elections Campaign Act, as reported from the Committee on Commerce and the Committee on Rules and as amended on the floor effectively restructures campaign financing and the use of big money in politics.

One of the foremost reforms to come out of this bill is the creation of a Federal Elections Commission. This Commission will be the central repository of campaign contribution and expenditure disclosures. It will have subpena power and primary jurisdiction to bring civil and criminal actions in court to enforce campaign spending laws. The Commission will be composed of seven members, distributed among the two major political parties, with the Comptroller General being the seventh member.

The legislation also provides that each candidate will designate one central campaign committee. This committee will receive and post all reports and statements of expenditures and contributions filed or received on behalf of a candidate. It will provide a one-stop check on spending for a candidate and end the hiding of campaign contributions.

The legislation also limits campaign

contributions to $3,000 per individual to a candidate, places a $25,000 ceiling on the amount of money that one person can give to a variety of candidates in a single year, and limits spending for campaigns to 10 cents per eligible voter in any primary election and 15 cents per eligible voter in the general election.

Such spending limits mean, for example, the most any candidate could spend in a statewide general election for U.S. Senate in Minnesota would be $384,000.

Finally, Mr. President, during debate on the legislation the first step was taken toward a new system of campaign financing: the public financing of political campaigns. A 38 to 58 vote occurred on a public financing amendment offered by Senators KENNEDY and SCOTT of Pennsylvania. Although the amendment was defeated it was a very worthwhile effort. I was proud to be a cosponsor of the amendment and actively support it in the floor debate.

Mr. President, I have long been an advocate of public financing for political campaigns. I strongly supported the dollar checkoff system for public financing of Presidential elections, and before the July 4 recess of this year, I was successful, with Senator RUSSELL LONG of Louisiana, in securing enactment of a law that will require the Internal Revenue Service to place the dollar checkoff boxes on the front page of the tax return.

In my judgment, it is time now to expand the concept of public financing to all Federal elections.

The time has come in this country to reject the old system of private contributions and begin anew—begin a system of public financing of elections to Federal office.

If a system of public financing of Federal elections existed, the possibility of influence of special interest and large private contributors could be reduced, the influence of the average voter would be enhanced, candidates who are not independently wealthy would be encouraged to run for political office, and the key to elections would become the qualities of the man running rather than the size of his bank account or the number of wealthy friends he happens to have.

Mr. President, various Senators and many organizations have suggested several alternative methods of public financings. Make no mistake about it—there are some tough problems that must be considered before a system of public financing is passed. The problem of third parties, the possibility of frivolous candidates, the possibility of discrimination by the party in power, the timing and allotment of public financing dollars to candidates, the necessity to maintain the openness of the political system to all possible candidates—these are not problems of minor importance.

Still, Mr. President, we in the Congress have to face reality. The defects in the current system—even though we are eliminating some of those defects with the legislation presently before the Senate—are substantial. The present system does discourage competition, it does encourage secrecy, it leaves all too much room for influence among the special interest lobbies, and it does breed a certain amount of cynicism and disbelief among the average voter in the integrity of men elected to high public office.

These problems are as serious as the questions to be answered about public financing.

Mr. President, the American people want an electoral system they can believe in. The American people want a system of elections that is fair, that gives each candidate an equal chance, that promotes candidates who will act in the interest of the people, that insulates candidates from the special few, and that guarantees open, honest elections decided on the merits of the candidates and their stands on the issues.

Public financing would move this Nation a long way toward these goals.

Mr. President, I believe the Federal Elections Campaign Act of 1973 will help restore public confidence to our electoral process. This is positive legislation. It is crucial legislation. Its rapid consideration and passage by the House of Representatives is imperative.

Mr. MOSS. Mr. President, for several days the Senate has been engaged in debate on an issue of immense importance to the future of the democratic process in the United States—the Federal Election Campaign Act of 1973. The Congress took a giant step forward in 1971 when the Campaign Reform Act was passed. This was the first major revision of our finance campaign laws in almost 50 years. But the election of 1972 demonstrated certain weaknesses in the 1971 law. To prevent these weaknesses in future campaigns important and informative hearings were held earlier this year by the Senate Commerce Committee and the Senate Rules and Administration Committee in order to draft legislation. I wish to personally commend the efforts of Senator CANNON and Senator PASTORE for their contributions to this legislation. Their untiring work to improve the election process has demonstrated their sincere commitment to improving our election process. These men have helped to guide us through a difficult piece of legislation.

Mr. President, I strongly support campaign reform that will decrease the cost of elections. Having been involved in three strenuous campaigns for the U.S. Senate, I recognize the premium that is placed on campaign finances. Without access to money, it is impossible to wage any campaign at all, let alone a successful campaign. The modern technological age has often not been conducive to the "stump" campaign of a century ago, although, at least in my native State of Utah, it is still an effective means of campaigning.

Campaigns involve the active participation by representatives of many special interests. Many of these representatives feel that the only way to become involved in a campaign is through monetary contributions. Unfortunately, they are too often correct. In return for their monetary contributions, many such representatives then expect special favors. In effect, they are attempting to buy favors. And in far too many cases they are successful.

The legislation before us is a step in the right direction. It probably will not be a panacea. But a beginning must take place somewhere. Ultimately we will hopefully triumph over the scandals of previous campaigns that have too often occurred due to misuse of money.

Mr. President, many Senators have shown a special interest in this legislation. They have engaged in debate and deliberation out of conviction that our election process must be vastly improved if confidence by the American people in their political system is to be achieved. But, Mr. President, I fear that the American people have lost sight of the main thrust of this legislation due to the some three score amendments introduced, ostensibly to prevent apparent loopholes and provide certain improvements. Several of the amendments have raised legitimate concerns. But other amendments have created much debate, no definitive action, and little improvement. They have created confusion and misunderstanding. This is unfortunate because of the importance of this legislation. And where confusion exists in the Senate, confidence is found to be lacking among the American people in their political system. These people need to be especially reassured of the worth of their government during this period of mistrust and suspicion of government.

One of the outstanding features of this legislation is the creation of an autonomous Federal Election Commission that can supervise future Federal elections. We must be sure that appointments to these important and powerful positions, involve individuals who have demonstrated the highest integrity and morality. Theirs is a position of great responsibility. Their demeanor and actions must be beyond reproach.

It is refreshing that certain financial limitations have been placed on campaign contributions and expenditures. If greater participation in the democratic process will occur as a result of the limitations on contributions, our entire Government will be improved. Such participation can only come by limiting the very large contributions to campaigns. And if we can prevent "buying" of political office by placing limitations on campaign expenditures, some of the confidence of the past in the worth of political officials can be restored. Certainly there is no higher calling than to be an honored politician.

I strongly feel that some form of public financing of campaigns is important. Although there were certain weaknesses in the amendment offered earlier by Senator KENNEDY and minority leader SCOTT regarding public financing of House and Senate campaigns, I supported it because I felt that it was better than no legislation. One of the reasons this amendment was unacceptable to the majority of the Senators was that they felt that there should be hearings and consideration by the appropriate Senate committees on an issue of such importance. Senator CANNON, chairman of the Committee on Rules and Administration, and Senator PELL, chairman of the relevant subcommittee, have given assurances that they will conduct extensive hearings

on public financing of elections this fall. I intend to testify in support of public financing at that time.

To summarize, the Federal Election Campaign Act of 1973 provides better safeguards against the misuse of money in campaigns than any previous legislation. It should prevent many of the past loopholes that have permitted corruption in campaigns. It is truly an "important, incredibly complex and enormously far-reaching political reform."

We, as United States Senators who are representatives of the American people, have a special position of trust. We must lead the way in providing a basis for a better image of representative government. The general intent of the legislation before us will be a step in the right direction. It insures that no contributor will essentially "own" a candidate for public office. And, whether we want to admit it or not, some contributors have at least felt they "owned" us on certain occasions. This has a demeaning effect on the image of representative government in the eyes of the American people. This legislation can prevent this. And it must.

I strongly urge my colleagues to vote in favor of S. 372, the Federal Election Campaign Act of 1973.

Mr. CANNON. Mr. President, I wish to express my appreciation to my colleagues in the Senate for their support in adopting the Federal Election Campaign Act Amendments of 1973.

This measure, as passed by the Senate, sets limits on contributions and expenditures; it prohibits the use of cash over $50; it creates a powerful and independent agency to oversee and enforce the law; and it calls for complete disclosure of receipts and expenditures as well as the income, assets, holdings in securities, and commodities of Federal candidates and others.

The bill, as passed, should restore the confidence of the public in the integrity of the Federal Government.

Mr. President, I wish to thank my colleagues on the Committee on Commerce and the Committee on Rules and Administration for their cooperation throughout the proceedings in committee and in the Senate in preserving the integrity and strength of this bill.

I also want to express my thanks to the staff members who participated in this effort: Jim Duffy, Jim Medill, and Joe O'Leary of the Rules Committee; Nick Zapple, Ward White, and John Hardy of the Commerce Committee; and Lloyd Ator of the Office of the Legislative Counsel, Ken Davis from Senator Scott's office, and Larry Smith of Senator Hatfield's office.

Mr. COOK. I wish to commend the chairman of the Committee on Rules and Administration for his efforts in connection with this bill. I concur in his statements relative to staff members.

If we are told we have to take this matter seriously I wish to say for the RECORD on final passage this will be the 26th rollcall vote, and we have had more than 25 voice votes on amendments. So we have treated this matter, I hope, seriously and we have tried our best to evaluate the bill. Certainly Senators have given a great deal of attention to it, and the problems they think they should address their remarks to, which they did.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. PASTORE. Mr. President, I join Senators in commending the staff of the Senator from Nevada and the Senator from Kentucky. I think we have a reasonably good bill at this juncture. I must say, and I would be unfair if I did not say it—this is not sour grapes with me—the one disappointment I have is the fact that we did not leave the exemption to section 315 solely to the Presidency and the Vice Presidency. I say that for practical reasons.

I was the one who thought it should be all inclusive. I went as far as the Governors, but when we met in conference we met tremendous opposition. The House is sensitive to it, and they said, "If you had left it alone for the Presidency and the Vice Presidency, we would have gone along with it." I said, "We will take it out for Senators and Congressmen."

They said, "No, you have offended us when you did it, and that is that."

The regrettable thing is that the expense for nationwide television programing is so large, and we have done so much to get networks to give free time; I think it is all going to be lost. My amendment was defeated 50 to 43. I regret there were not too many Senators on the floor to listen to what I had to say. They came in more or less by surprise and voted it up or down. I am not lamenting or criticizing that fact, but I would be terribly disappointed if the House took the same attitude again, and I think they might. It is regrettable because men who run for the Presidency know how hard it is to raise money to pay for nationwide broadcasts.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. COOK. I yield back the remainder of my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. TOWER. Mr. President, on this vote I have a live pair with the distinguished Senator from Kansas (Mr. DOLE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is absent on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The pair of the Senator from Kansas (Mr. DOLE) has been previously announced.

The yeas and nays resulted—yeas 82, nays 8, as follows:

[No. 353 Leg.]

YEAS—82

Allen	Griffin	Montoya
Bartlett	Gurney	Moss
Bayh	Hart	Muskie
Beall	Hartke	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hatfield	Packwood
Bible	Hathaway	Pastore
Biden	Helms	Pearson
Brock	Hollings	Pell
Brooke	Hruska	Percy
Burdick	Huddleston	Proxmire
Byrd, Harry F., Jr.	Hughes	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Roth
Case	Jackson	Schweiker
Chiles	Javits	Scott, Pa.
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cook	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mansfield	Symington
Domenici	Mathias	Talmadge
Dominick	McClure	Thurmond
Eagleton	McGee	Tunney
Ervin	McGovern	Weicker
Fong	McIntyre	Williams
Fulbright	Metcalf	Young
	Mondale	

NAYS—8

Aiken	Eastland	McClellan
Bennett	Fannin	Scott, Va.
Cotton	Hansen	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Tower, against

ANSWERED "PRESENT"—1

Baker

NOT VOTING—8

Abourezk	Goldwater	Stennis
Buckley	Gravel	Taft
Dole	Saxbe	

The PRESIDING OFFICER. On this vote there are 82 yeas, 8 nays, one Senator voting "present." The bill is passed.

So the bill (S. 372) was passed, as follows:

S. 372

An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for Federal office, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Election Campaign Act Amendments of 1973".

SEC. 2. (a)(1) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof the following: ", other than Federal elective office (including the office of Vice President),".

(2) Section 315(a) of such Act (47 U.S.C. 315(a)) is further amended by—

(A) inserting "(1)" immediately after "(a)"; and

(B) adding at the end thereof the following new paragraphs:

"(2) The obligation imposed by the first sentence of paragraph (1) upon a licensee with respect to legally qualified candidates for Federal elective office (other than the offices of President and Vice President) shall have been met by such licensee with respect to such candidates if—

"(A) the licensee makes available to such candidates not less than fifteen minutes of broadcast time without charge during the period beginning ten days after the last date, under applicable State law, on which such candidates may file with the appropriate State officer as candidates, and ending on the day before the date of the election,

"(B) the licensee notifies such candidates during the period beginning on the day after the filing date and ending ten days thereafter, and

"(C) such broadcast will cover, in whole or in part, the geographical area in which such election is held,

"(3) No candidate shall be entitled to the use of broadcast facilities pursuant to an offer made by a licensee under paragraph (2) unless such candidate notifies the licensee in writing of his acceptance of the offer within ten days after receipt of the offer."

(b) Section 315(b) of such Act (47 U.S.C. 315(b)) is amended by striking out "by any person" and inserting "by or on behalf of any person".

(c)(1) Section 315(c) of such Act (47 U.S.C. 315(c)) is amended to read as follows:

"(c) No station licensee may make any charge for the use of any such station by or on behalf of any legally qualified candidate for nomination for election, or for election, to Federal elective office unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not exceed the limit on expenditures applicable to that candidate under section 614 of title 18, United States Code."

(2) Section 315(d) of such Act (47 U.S.C. 315(d)) is amended to read as follows:

"(d) If a State by law imposes a limitation upon the amount which a legally qualified candidate for nomination for election, or for election, to public office (other than Federal elective office) within that State may spend in connection with his campaign for such nomination or his campaign for election, then no station licensee may make any charge for the use of such station by or on behalf of such candidate unless such candidate (or a person specifically authorized in writing by him to do so) certifies to such licensee in writing that the payment of such charge will not violate that limitation."

(d) Section 317 of such Act (47 U.S.C. 317), is amended by—

(1) striking out in paragraph (1) of subsection (a) "person: *Provided*, That" and inserting in lieu thereof the following: "person. If such matter is a political advertisement soliciting funds for a candidate or a political committee, there shall be announced at the time of such broadcast a statement that a copy of reports filed by that person with the Federal Election Commission is available from the Federal Election Commission, Washington, D.C., and the licensee shall not make any charge for any part of the costs of making the announcement. The term"; and

(2) by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Each station licensee shall maintain a record of any political advertisement broadcast, together with the identification of the person who caused it to be broadcast, for a period of two years. The record shall be available for public inspection at reasonable hours."

SEC. 3. The Campaign Communications Reform Act is repealed.

SEC. 4. (a) Section 301 of the Federal Election Campaign Act of 1971 (relating to definitions) is amended by—

(1) striking out ", and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" in paragraph (a), and by inserting "and" before "(4)" in such paragraph;

(2) striking out paragraph (d) and inserting in lieu thereof the following:

"(d) 'political committees' means—

"(1) any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(2) any national committee, association, or organization of a political party, any State affiliate or subsidiary of a national political party, and any State central committee of a political party; and

"(3) any committee, association, or organization engaged in the administration of a separate segregated fund described in section 610 of title 18, United States Code;";

(3) inserting in paragraph (e)(1) after "subscription" the following: "(including any assessment, fee, or membership dues)";

(4) striking out in paragraph (e)(1) "or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" and inserting in lieu thereof the following: "or for the purpose of financing any operations of a political committee, or for the purpose of paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office";

(5) striking out subparagraphs (2) and (3) of paragraph (e), and redesignating subparagraphs (4) and (5) as (2) and (3), respectively;

(6) striking out paragraph (f) and inserting in lieu thereof the following:

"(f) 'expenditure' means a purchase payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

"(1) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice-presidential elector;

"(2) influencing the result of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(3) financing any operations of a political committee; or

"(4) paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office;

"(5) but shall not mean or include those who volunteer to work without compensation on behalf of a candidate;";

(7) striking "and" at the end of paragraph (h);

(8) striking the period at the end of paragraph (i) and inserting in lieu thereof a semicolon; and

(9) adding at the end thereof the following new subsection:

"(j) 'identification' means—

"(1) in the case of an individual, his full name and the full address of his principal place of residence; and

"(2) in the case of any other person, the full name and address of that person;

"(k) 'national committee' means the duly constituted organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of that political party at the national level, as determined by the Commission; and

"(l) 'political party' means a political party which, in the next preceding presidential election nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.".

(b)(1) Section 302(b) of such Act (relating to reports of contributions in excess of $10) is amended by striking ", the name and address (occupation and principal place of business, if any)" and inserting "of the contribution and the identification".

(2) Section 302(c) of such Act (relating to detailed accounts) is amended by striking "full name and mailing address (occupation and the principal place of business, if any)" in paragraphs (2) and (4) and inserting in each such paragraph "identification".

(3) Section 302(c) of such Act is further amended by striking the semicolon at the end of paragraph (2) and inserting "and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);".

SEC. 5. (a) Section 303 of the Federal Election Campaign Act of 1971 (relating to registration of political committees; statements) is amended by redesignating subsections (a) through (d) as (b) through (e), respectively, and by inserting after "SEC. 303." the following new subsection (a):

"(a) Each candidate shall, within ten days after the date on which he has qualified under State law as a candidate, or on which he or any person authorized by him to do so has received a contribution or made an expenditure in connection with his campaign or for the purpose of preparing to undertake his campaign, file with the Commission a registration statement in such form as the Commission may prescribe. The statement shall include—

"(1) the identification of the candidate, and any individual, political committee, or other person he has authorized to receive contributions or make expenditures on his behalf in connection with his campaign;

"(2) the identification of his campaign depositories, together with the title and number of each account at each such depository which is to be used in connection with his campaign, any safety deposit box to be used in connection therewith, and the identification of each individual authorized by him to make any expenditure or withdrawal from such account or box; and

"(3) such additional relevant information as the Commission may require."

(b) The first sentence of subsection (b) of such section (as redesignated by subsection (a) of this section) is amended to read as follows: "The treasurer of each political committee shall file with the Commission a statement of organization within ten days after the date on which the committee is organized.".

(c) The second sentence of such subsection (b) is amended by striking out "this Act" and inserting in lieu thereof the following: "the Federal Election Campaign Act Amendments of 1973".

(d) Subsection (c) of such section (as redesignated by subsection (a) of this section) is amended by—

(1) inserting "be in such form as the Commission shall prescribe, and shall" after "The statement of organization shall";

(2) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the geographic area or political jurisdiction within which the committee will

operate, and a general description of the committee's authority and activities;"; and

(3) striking out paragraph (9) and inserting in lieu thereof the following;

"(9) the name and address of the campaign depositories used by that committee, together with the title and number of each account and safety deposit box used by that committee at each depository, and the identification of each individual authorized to make withdrawals or payments out of such account or box;".

(e) The caption of such section 303 is amended by inserting "CANDIDATES AND" after "REGISTRATION OF".

SEC. 6. (a) Section 304 of the Federal Election Campaign Act of 1971 (relating to reports by political committees and candidates) is amended by—

(1) inserting "(1)" after "(a)" in subsection (a);

(2) striking out "for election" each place it appears in the first sentence of subsection (a) and inserting in lieu thereof in each such place "for nomination for election, or for election,";

(3) striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "Such reports shall be filed on the tenth day of April, July, and October of each year, on the tenth day preceding an election, and on the last day of January following an election. Notwithstanding the preceding sentence, the reports required by that sentence to be filed during April, July, and October by or relating to a candidate during a year in which no Federal election is held in which he is a candidate, may be filed on the twentieth day of each month.";

(4) striking out everything after "filing" in the third sentence of subsection (a) and inserting in lieu thereof a period and the following: "Any contribution of $3,000 or more which is received after the closing date of the last report required to be filed prior to any election shall be reported within twenty-fours after its receipt. If the person making any anonymous contribution is subsequently identified, the identification of the contributor shall be reported to the Commission within the reporting period within which it is identified."; and

(5) adding at the end of subsection (a) the following new paragraph:

"(2) Upon a request made by a Presidential candidate or a political committee which operates in more than one State, or upon its own motion, the Commission may waive the reporting dates (other than January 31) set forth in the second sentence of paragraph (1), and require instead that such candidates or political committees file reports not less frequently than monthly. The Commission may not require a Presidential candidate or a political committee operating in more than one State to file more than eleven reports (not counting any report to be filed on January 31 and special reports of contributions of $3,000 or more is required in paragraph (1) above) during any calendar year. If the Commission acts on its own motion under this paragraph with respect to a candidate or a political committee, that candidate or committee may obtain judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

(b)(1) Section 304(b) of such Act (relating to reports by political committees and candidates) is amended by striking "full name and mailing address (occupation and the principal place of business, if any) in paragraphs (9) and (10) and inserting in lieu thereof in each such paragraph: "identification".

(2) Subsection (b)(5) of such section 304 is amended by striking out "lender, endorsers, and guarantors".

(c) Subsection (b)(12) of such section is amended by inserting before the semicolon the following: ", together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor".

(d) Subsection (b) of such section is amended by—

(1) striking the "and" at the end of paragraph (12); and

(2) redesignating paragraph (13) as (14), and by inserting after paragraph (12) the following new paragraph:

"(13) such information as the Commission may require for the disclosure of the nature, amount, source, and designated recipient of any earmarked, encumbered, or restricted contribution or other special fund; and".

(e) The first sentence of subsection (c) of such section is amended to read as follows: "The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, and during such additional periods of time as the Commission may require.".

(f)(1) Such section 304 is amended by adding at the end thereof the following new subsections:

"(d) This section does not require a Member of Congress to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him before the first day of January of the year preceding the year in which his term of office expires if those services were furnished to him by the Senate Recording Studio, the House Recording Studio, or by any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if such services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(e) Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

"(f)(1) For purposes of this subsection—

"(A) 'Member of Congress' means Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(B) 'income' means gross income as defined in section 61 of the Internal Revenue Code of 1954;

"(C) 'security' means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

"(D) 'commodity' means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2);

"(E) 'dealings in securities or commodities' means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity; and

"(F) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this subsection, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

"(2) Each candidate for election to Congress (other than a candidate who is a Member of Congress) shall file with the Commission a financial disclosure report for the calendar year immediately preceding the year in which he is a candidate. Such report shall be filed not later than thirty days after the individual becomes such a candidate.

"(3) Each individual who has served at any time during any calendar year as a Member of Congress shall file with the Commission a financial disclosure report for that year. Such report shall be filed not later than May 1 of the year immediately following such calendar year.

"(4) Each financial disclosure report to be filed under this subsection shall be made upon a form which shall be prepared by the Commission and furnished by it upon request. Each such report shall contain a full and complete statement of—

"(A) the amount and source of each item of income, other than reimbursements for expenditures actually incurred, and each gift or aggregate of gifts from one source of a value of more than $100 (other than gifts received from any relative or his spouse) received by him or by him and his spouse jointly during the preceding calendar year, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

"(B) each asset held by him, or by him and his spouse jointly, and the amount of each liability owed by him, or by him and his spouse jointly, as of the close of the preceding calendar year;

"(C) all dealings in securities or commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year; and

"(D) all purchases and sales of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year.

"(5) The Commission may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

"(6) All reports filed under this subsection shall be maintained by the Commission as public records. Such reports shall be available, under such regulations as the Commission may prescribe, for inspection by the public.".

(2) Subsection (f) of such section 304, as added by paragraph (1) of this subsection, shall apply with respect to calendar years commencing on or after January 1, 1974.

(g) The caption of such section 304 is amended to read as follows:

"REPORTS"

SEC. 7. Section 305 of the Federal Election Campaign Act of 1971 (relating to reports by others than political committees) is amended to read as follows:

"REQUIREMENTS RELATING TO CAMPAIGN ADVERTISING

"SEC. 305. (a) No person shall cause any political advertisement to be published unless he furnishes to the publisher of the advertisement his identification in writing, together with the identification of any person authorizing him to cause such publication.

"(b) Any published political advertisement shall contain a statement, in such form as the Commission may prescribe, of the identification of the person authorizing the publication of that advertisement.

"(c) Any publisher who publishes any po-

litical advertisement shall maintain such records as the Commission may prescribe for a period of two years after the date of publication setting forth such advertisement and any material relating to identification furnished to him in connection therewith, and shall permit the public to inspect and copy those records at reasonable hours.

"(d) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

"(e) Any political committee shall include on the face or front page of all literature and advertisements soliciting contributions the following notice:

"'A copy of our report filed with the Federal Election Commission is available for purchase from the Federal Election Commission, Washington, D.C.'

"(f) As used in this section, the term—

"(1) 'political advertisement' means any matter advocating the election or defeat of any candidate or otherwise seeking to influence the outcome of any election, but does not include any bona fide news story (including interviews, commentaries, or other works prepared for and published by any newspaper, magazine, or other periodical publication, the publication or which work is not paid for by any candidate, political committee, or agent thereof or by any other person); and

"(2) 'published' means publication in a newspaper, magazine, or other periodical publication, the publication of which work pamphlets, or other documents, or display through the use of any outdoor advertising facility, and such other use of printed media as the Commission shall prescribe.".

SEC. 8. Section 306(c) of the Federal Election campaign Act of 1971 (relating to formal requirements respecting reports and statements) is amended to read as follows:

"(c) The Commission may, by published regulation of general applicability, relieve—

"(1) any category of candidates of the obligation to comply personally with the requirements of section 304(a)–(e), if it determines that such action will not have any adverse effect on the purposes of this title, and

"(2) any category of political committees of the obligation to comply with such section if such committees—

"(A) primarily support persons seeking State or local office, and

"(B) do not operate in more than one State or do not operate on a statewide basis.".

SEC. 9. (a) Title III of the Federal Election Campaign Act of 1971 (relating to disclosure of Federal campaign funds) is amended by redesignating section 308 as section 312, and by inserting after section 307 the following new sections:

"FEDERAL ELECTION COMMISSION

"SEC. 308. (a)(1) There is hereby established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission.

"(2) The Commission shall be composed of the Comptroller General, ex officio with the right to vote, and six other members who shall be appointed by the President by and with the advice and consent of the Senate. Of the six other members—

"(A) two shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendations of the majority leader of the Senate and the minority leader of the Senate; and

"(B) two shall be chosen from among individuals recommended by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House. The two members appointed under subparagraph (A) shall not be affiliated with the same political party; nor shall the two members appointed under subparagraph (B). The two members not appointed under such subparagraphs shall not be affiliated with the same political party.

"(3) Members of the Commission, other than the Comptroller General, shall serve for terms of seven years, except that, of the members first appointed—

"(A) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending on the April thirtieth first occurring more than six months after the date on which he is appointed;

"(B) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending one year after the April thirtieth on which the term of the member referred to in subparagraph (A) of this paragraph ends;

"(C) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending two years thereafter;

"(D) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending three years thereafter;

"(E) one of the members appointed under paragraph (2)(A) shall be appointed for a term ending four years thereafter;

"(F) one of the members appointed under paragraph (2)(B) shall be appointed for a term ending five years thereafter; and

"(G) the Comptroller General shall serve during his term of office as Comptroller General.

"(4) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment. A member may be reappointed to the Commission only once.

"(5) An individual appointed to fill a vacancy occuring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of member of the Commission shall be filled in the manner in which that office was originally filled.

"(6) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of two years. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and four members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers in any State.

"(f) The Commission shall appoint a General Counsel and an Executive Director to serve at the pleasure of the Commission. The General Council shall be the chief legal officer of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(g) The Chairman of the Commission shall appoint and fix the compensation of such personnel as may be necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code.

"(h) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(i) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(j) The provisions of section 7324 of title 5, United States Code, shall apply to members of the Commission notwithstanding the provisions of subsection (d)(3) of such section.

"(k)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation requested by the Congress or by any Member of Congress to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"POWERS OF COMMISSION

"SEC. 309. (a) The Commission shall have the power—

"(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

"(2) to administer oaths;

"(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to initiate (through civil proceedings for injunctive relief and through presentations to Federal grand juries), prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title and of sections 602, 608, 610, 611, 612, 613, 614, 615, 616, and 617 of title 18, United States Code, through its General Counsel; and

"(7) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d) Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this title, and of sections 602, 608, 610, 611, 612, 613, 614, 615, 616, and 617 of title 18, United States Code. Any violation of any such provision shall be prosecuted by the Attorney General or Department of Justice personnel only after consultation with, the consent of, the Commission.

"(e)(1) Any person who violates any provision of this title and of sections 602, 608, 610, 611, 612, 613, 614, 615, 616, and 617 of title 18, United States Code, may be assessed a civil penalty by the Commission under paragraph (2) of this subsection of not more than $10,000 for each such violation. Each occurrence of a violation of this title and each day of noncompliance with a disclosure requirement of this title or an order of the Commission issued under this section shall constitute a separate offense. In determining the amount of the penalty the Commission shall consider the person's history of previous violations, the appropriateness of such penalty to the financial resources of the person charged, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

"(2) A civil penalty shall be assessed by the Commission by order only after the person charged with a violation has been given an opportunity for a hearing and the Commission has determined, by decision incorporating its findings of fact therein, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with section 554 of title 5, United States Code.

"(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Commission shall file a petition for enforcement of its order assessing the penalty in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and his attorney of record, and thereupon the Commission shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Commission or it may remand the proceedings to the Commission for such further action as it may direct. The court may consider and determine de novo all relevant issues of law but the Commission's findings of fact shall become final thirty days after issuance of its decision order incorporating such findings of fact and shall not thereafter be subject to judicial review.

"(f) Upon application made by any individual holding Federal office, any candidate, or any political committee, the Commission, through its General Counsel, shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of title 18 over which the Commission has primary jurisdiction under subsection (d). Notwithstanding any other provision of law, no candidate or political committee shall be held or considered to have violated any such provision by the commission or omission of any act with respect to which an advisory opinion has been issued to that candidate or political committee under this subsection.

CENTRAL CAMPAIGN COMMITTEES

"SEC. 310. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee and the State campaign committees of the candidate nominated by that party for election to the office of Vice President.

"(c)(1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required under the last sentence of section 304(a) and 311(b)) to that candidate's central campaign committee at the time it would, but for this subsection, be required to furnish that report to the Commission. Any report properly furnished to a central campaign committee under this subsection shall be, for purposes of this title, held and considered to have been furnished to the Commission at the time at which it was furnished to such central campaign committee.

"(2) The Commission may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State campaign committee for that State to furnish its reports to that State campaign committee instead of furnishing such reports to the central campaign committee of that candidate.

"(3) The Commission may require any political committee to furnish any report directly to the Commission.

"(d) Each political committee which is a central campaign committee or a State campaign committee shall receive all reports filed with or furnished to it by other political committees, and consolidate and furnish the reports to the Commission, together with its own reports and statements, in accordance with the provisions of this title and regulations prescribed by the Commission.

"CAMPAIGN DEPOSITORIES

"SEC. 311. (a)(1) Each candidate shall designate one or more National or State banks as his campaign depositories. The central campaign committee of that candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a checking account at a depository so designated by the candidate and shall deposit any contributions received by that committee into that account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more National or State banks as campaign depositories of that committee, and shall maintain a checking account for the committee at each such depository. All contributions received by that committee shall be deposited in such an account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

"(c) A candidate for nomination for election, or for election, to the office of President may establish one such depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the Commission, as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.".

(b)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(60) Members (other than the Comptroller General), Federal Election Commission (6)."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraphs:

"(98) General Counsel, Federal Election Commission.

"(99) Executive Director, Federal Election Commission."

(c) Until the appointment and qualification of all the members of the Federal Election Commission and its General Counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as such titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its General Counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within thirty days after the date on which all such members and the General Counsel are appointed, of all records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971.

(d) Title III of the Federal Election Campaign Act of 1971 is amended by—

(1) amending section 301(g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Election Commission;";

(2) striking out "supervisory officer" in section 302(d) and inserting "Commission";

(3) striking out section 302(f) (relating to organization of political committees);

(4) amending section 303 (relating to registration of political committees; statements) by—

(A) striking out "supervisory officer" each time it appears therein and inserting "Commission"; and

(B) striking out "he" in the second sentence of subsection (b) of such section (as redesignated by section 5(a) of this Act) and inserting "it";

(5) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence thereof and inserting "Commission" and "it", respectively; and

(B) striking out "supervisory officer" where it appears in the third sentence of subsection (a) and in paragraphs (12) and (14) (as redesignated by section 6(d)(2) of this Act) of subsection (b), and inserting "Commission";

(6) striking out "supervisory officer" each place it apears in section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(7) striking out "Comptroller General of the United States" and "he" in section 307 (relating to reports on convention financing) and inserting "Federal Election Commission" and "it", respectively;

(8) striking out "SUPERVISORY OFFICER" in the caption of section 312 (as redesignated by subsection (a) of this section) (relating to duties of the supervisory officer) and inserting "COMMISSION";

(9) striking out "supervisory officer" in section 312(a) (as redesignated by subsection (a) of this section) the first time it appears and inserting "Commission";

(10) amending section 312(a) (as redesignated by subsection (a) of this section) by—

(A) striking out "him" in paragraph (1) and inserting "it";

(B) striking out "him" in paragraph (4) and inserting "it"; and

(C) striking out "he" each place it appears in paragraphs (7) and (9) and inserting "it".

(11) striking out "supervisory officer" in section 312(b) (as redesignated by subsection (a) of this subsection) and inserting "Commission";

(12) amending subsection (c) of section 312 (as redesignated by subsection (a) of this section) by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission", and striking "his" in the second sentence of such subsection and inserting "its"; and

(B) striking out the last sentence thereof; and

(13) amending subsection (d)(1) of section 312 (as redesignated by subsection (a) of this section) by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission";

(B) striking out "he" the first place it appears in the second sentence of such section and inserting "it"; and

(C) striking out "the Attorney General on behalf of the United States" and inserting "the Commission".

SEC. 10. Section 312(a)(6) (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to duties of the supervisory officer) is amended to read as follows:

"(6) to compile and maintain a cumulative index listing all statements and reports filed with the Commission during each calendar year by political committees and candidates, which the Commission shall cause to be published in the Federal Register no less frequently than monthly during even-numbered years and quarterly in odd-numbered years and which shall be in such form and shall include such information as may be prescribed by the Commission to permit easy identification of each statement, report, candidate, and committee listed, at least as to their names, the dates of the statements and reports, and the number of pages in each, and the Commission shall make copies of statements and reports listed in the index available for sale, direct or by mail, at a price determined by the Commission to be reasonable to the purchaser;".

SEC. 11. Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 312 (as redesignated by this Act) the following new section:

"SUSPENSION OF FRANK FOR MASS MAILINGS IMMEDIATELY BEFORE ELECTIONS

"SEC. 313. No Senator, Representative, Resident Commissioner, or Delegate shall make any mass mailing of a newsletter or mailing with a simplified form of address under the frank under chapter 32 of title 39, United States Code, during the sixty days immediately preceding the date on which any election is held in which he is a candidate."

SEC. 12. Section 309 of the Federal Election Campaign Act of 1971 (relating to statements filed with State officers) is redesignated as section 314 of such Act and amended by—

(1) striking out "a supervisory officer" in subsection (a) and inserting in lieu thereof "the Commission";

(2) striking out "in which an expenditure is made by him or on his behalf" in subsection (a)(1) and inserting in lieu thereof the following: "in which he is a candidate or in which substantial expenditures are made by him or on his behalf"; and

(3) adding the following new subsection:

"(c) There is hereby authorized to be appropriated to the Commission in each fiscal year the sum of $500,000, to be made available in such amounts as the Commission deems appropriate to the States for the purpose of assisting them in complying with their duties as set forth in this section.".

SEC. 13. Section 310 of the Federal Election Campaign Act of 1971 (relating to prohibition of contributions in name of another) is redesignated as section 315 of such Act and amended by inserting after "another person", the first time it appears, the following: "or knowingly permit his name to be used to effect such a contribution".

SEC. 14. Section 311 of the Federal Election Campaign Act of 1971 (relating to penalty for violations) is amended to read as follows:

"PENALTY FOR VIOLATIONS

"SEC. 316. (a) Violation of the provisions of this title (other than section 304 (f)) is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both.

"(b) Violation of the provisions of this title other than section 30 (b)) with knowledge or reason to know that the action committed or omitted is a violation of this Act is punishable by a fine of not more than $100,000, imprisonment for not more than five years, or both.

"(c) Any person who willfully fails to file a report required by section 304(f) of this Act, or who knowingly and willfully files a false report under such section, shall be fined $2,000 or imprisoned for not more than one year or both.".

SEC. 15. (a) Title III of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new sections:

"APPROVAL OF PRESIDENTIAL CAMPAIGN EXPENDITURES BY NATIONAL COMMITTEE

"SEC. 317. (a) No expenditure in excess of $1,000 shall be made by or on behalf of any candidate who has received the nomination of his political party for President or Vice President unless such expenditure has been specifically approved by the chairman or treasurer of that political party's national committee or the designated representative of that national committee in the State where the funds are to be expended.

"(b) Each national committee approving expenditures under subsection (a) shall register under section 303 as a political committee and report each expenditure it approves as if it had made that expenditure, together with the name and address of the person seeking approval and making the expenditure.

"(c) No political party shall have more than one national committee.

"USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

"SEC. 318. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his campaign expenses, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of Federal office, may be used by that candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, or may be contributed by him to any organization described in section 170(c) of the Internal Revenue Code of 1954. To the extent any such contribution, amount contributed or expenditure thereof is not otherwise required to be disclosed under the provision of this title, such contribution, amount contributed or expenditure shall be fully disclosed in accordance with regulations promulgated by the Commission. The Commission is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 319. There are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under this title, and under chapter 29 of title 18, United States Code, not to exceed $5,000,000 for the fiscal year ending June 30, 1974, and not to exceed $5,000,000 for each fiscal year thereafter."

SEC. 16. Section 403 of the Federal Election Campaign Act of 1971 is amended to read as follows:

"EFFECT ON STATE LAW

"SEC. 403. The provisions of this Act, and of regulations promulgated under this Act, supersede and preempt any provision of State law with respect to campaigns for nomination for election, or for election, to Federal office (as such term is defined in section 301 (c))."

SEC. 17. (a) Paragraph (a) of section 591 of title 18, United States Code, is amended by—

(1) inserting "or" before "(4)"; and

(2) striking out "and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States".

(b) Such section 591 is amended by striking out paragraph (d) and inserting in lieu thereof the following:

"(d) 'political committee' means—

"(1) any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(2) any national committee, association, or organization of a political party, any State affiliate or subsidiary of a national political party, and any State central committee of a political party; and

"(3) any committee, association, or organization engaged in the administration of a separate segregated fund described in section 610;".

(c) Such section 591 is amended by—

(1) inserting in paragraph (e) (1) after "subscription" the following: "(including any assessment, fee, or membership dues)";

(2) striking out in such paragraph "or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States" and inserting in lieu thereof the following: "or for the purpose of financing any operation of a political committee, or for the purpose of paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office"; and

(3) striking out subparagraphs (2) and (3) of paragraph (e) and redesignating subparagraphs (4) and (5) as (2) and (3), respectively.

(d) Such section 591 is amended by striking out paragraph (f) and inserting in lieu thereof the following:

"(f) 'expenditure' means a purchase, payment, distribution, loan (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations, and in the ordinary course of business), advance, deposit, or gift of money or anything of value, made for the purpose of—

"(1) influencing the nomination for election, or the election, of any person to Federal office, or to the office of Presidential and Vice Presidential elector;

"(2) influencing the result of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(3) financing any operations of a political committee; or

"(4) paying, at any time, any debt or obligation incurred by a candidate or a political committee in connection with any campaign for nomination for election, or for election, to Federal office;".

SEC. 18. (a)(1) Subsection (a)(1) of section 608 of title 18, United States Code, is amended to read as follows:

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaigns for nomination for election, and for election, to, Federal office in excess, in the aggregate during any calendar year, of—

"(A) $100,000, in the case of a candidate for the office of President or Vice President;

"(B) $70,000, in the case of a candidate for the office of Senator; or

"(C) $50,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress."

(2) Subsection (a) of such section is amended by adding at the end thereof the following new paragraphs:

"(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

"(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid."

(b) Subsection (c) of such section is amended by striking out "$1,000" and inserting in lieu thereof "$25,000", and by striking out "one year" and inserting in lieu thereof "five years".

(c)(1) The caption of such section 608 is amended by adding at the end thereof the following: "out of candidates' personal and family funds".

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures out of candidates' personal and family funds.".

(d) Notwithstanding the provisions of section 608 of title 18, United States Code, it shall not be unlawful for any individual who, as of the date of enactment of this Act, has outstanding any debt or obligation incurred on his behalf by any political committee in connection with his campaigns prior to January 1, 1973, for nomination for election, and for election, to Federal office, to satisfy or discharge any such debt or obligation out of his own personal funds or the personal funds of his immediate family (as such term is defined in such section 608).

SEC. 19. Section 611 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610."

SEC. 20. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 614. LIMITATION ON EXPENDITURES GENERALLY.

"(a)(1) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary or primary runoff campaign for nomination for election to Federal office in excess of the greater of—

"(A) 10 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such nomination is held, or

"(B)(i) $125,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general or special election campaign for election to Federal office in excess of the greater of—

"(A) 15 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election is held, or

"(B)(i) $175,000, if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative, from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative.

"(b)(1) No candidate for nomination for election to the office of President may make expenditures in any State in connection with his campaign for such nomination in excess of the amount which a candidate for nomination for election to the office of Senator from that State (or for nomination of election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for that nomination. For purposes of this subsection, an individual is a candidate for nomination for election to the office of President if he makes (or any other person makes on his behalf) an expenditure on behalf of his candidacy for any political party's nomination for election to the office of President.

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of the amount which a candidate for election to the office of Senator (or for election to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for election to the office of Senator (or Delegate).

"(c)(1) Expenditures made on behalf of any candidate shall, for the purpose of this section, be deemed to have been made by such candidate.

"(2) Expenditures made by or on behalf of any candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been made by the candidate for the office of President of the United States with whom he is running.

"(3) For purposes of this subsection, an expenditure shall be held and considered to have been made on behalf of a candidate if it was made by—

"(A) an agent of the candidate for the purpose of making any campaign expenditure, or

"(B) any person authorized or requested by the candidate to make expenditures on his behalf.

"(d)(1) For purposes of paragraph (2):

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1970.

"(2) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(e) During the first week of January 1974, and every subsequent year, the Secretary of Commerce shall certify to the Federal Election Commission and publish in the Federal Register an estimate of the voting age population of each State and congressional district as of the first day of July next preceding the date of certification.

"(f)(1) No person shall render or make any charge for services or products knowingly furnished to, or for the benefit of, any candidate in connection with his campaign for nomination for election, or election, in an amount in excess of $100 unless the candidate (or a person specifically authorized by the candidate in writing to do so) certifies in writing to the person making the charge that the payment of that charge will not exceed the expenditure limitations set forth in this section.

"(2) Any person making an aggregate expenditure in excess of $1,000 to purchase services or products shall, for purposes of this subsection, be held and considered to be making such expenditure on behalf of any candidate the election of whom would be influenced favorably by the use of such products or services. No person shall render or make any charge for services or products furnished to a person described in the preceding sentence unless that candidate (or a person specifically authorized by that candidate in writing to do so) certified in writing to the person making the charge that the payment of that charge will not exceed the expendi-

ture limitation applicable to that candidate under this section.

"(g) The Federal Election Commission shall prescribe regulations under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State based on the number of persons in such State who can reasonably be expected to be reached by such expenditure.

"(h) Any person who knowingly or willfully violates the provisions of this section, other than subsections (c), (d), and (e), shall be punishable by a fine of $25,000, imprisonment for a period of not more than five years, or both. If any candidate is convicted of violating the provisions of this section because of any expenditure made on his behalf (as determined under subsection (c)(3)) by a political committee, the treasurer of that committee, or any other person authorizing such expenditure, shall be punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both, if such person knew, or had reason to know, that such expenditure was in excess of the limitation applicable to such candidate under this section.

"§ 615. LIMITATIONS ON CONTRIBUTIONS BY INDIVIDUALS AND ON EXPENDITURES BY CERTAIN OTHER PERSONS.

"(a) No individual shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of—

"(1) in the case of contributions to or for the benefit of a candidate other than a candidate for nomination for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $3,000; or

"(2) in the case of contributions to or for the benefit of a candidate for nomination for election, or for election, to the office of President, the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of that candidate, would equal $3,000.

"(b) No individual shall during any calendar year make, and no person shall accept, (1) any contribution to a political committee, or (2) any contribution to or for the benefit of any candidate, which when added to all the other contributions enumerated in (1) and (2) of this subsection which were made in that calendar year, exceeds $25,000.

"(c)(1) No person (other than an individual) shall make any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for or on behalf of that candidate during that calendar year, woud equal—

"(A) $3,000, in the case of a candidate other than a candidate for nomination for election, or for election, to the office of President; or

"(B) $3,000, in the case of a candidate for nomination for election, or for election, to the office of President.

"(2) This subsection shall not apply to the central campaign committee or the State campaign committee of a candidate, to the national committee of a political party, or to the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

"(d) The limitations imposed by subsection (a)(1) and by subsection (c) shall apply separately to each primary, primary runoff, general, and special election in which a candidate participates.

"(e)(1) Any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall, for purposes of this section, be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(2) Contributions made to or for the benefit of a candidate nominated by a political party for election to the office of Vice President shall be held and considered, for purposes of this section, to have been made to or for the benefit of the candidate nominated by that party for election to the office of President.

"(f) For purposes of this section, the term—

"(1) 'family' means an individual and his spouse and any of his children who have not attained the age of eighteen years; and

"(2) 'political party' means a political party which in the next preceding presidential election, nominated candidates for election to the offices of President and Vice President, and the electors of which party received in such election, in any or all of the States, an aggregate number of votes equal in number to at least 10 per centum of the total number of votes cast throughout the United States for all electors for candidates for President and Vice President in such election.

"(g) For purposes of the limitations contained in this section, all contributions made by any person directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate, shall be treated as contributions from that person to that candidate.

"(h) Violation of the provisions of this section is punishable by a fine of not to exceed $25,000, imprisonment for not to exceed five years, or both.

"§ 616. FORM OF CONTRIBUTIONS.

"It shall be unlawful for any person to make a contribution to or for the benefit of any candidate or political committee in excess, in the aggregate during any calendar year, of $50 unless such contribution is made by a written instrument identifying the person making the contribution. Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed one year, or both.

"§ 617. EMBEZZLEMENT OR CONVERSION OF POLITICAL CONTRIBUTIONS.

"Whoever, being a candidate, or an officer, employee, or agent of a political candidate, or a person acting on behalf of any candidate or political committee, embezzles, knowingly converts to his own use or the use of another, or deposits in any place or in any manner except as authorized by law, any contributions or campaign funds entrusted to him or under his possession, custody, or control, or uses any campaign funds to pay or defray the costs of attorney fees for the defense of any person or persons charged with the commission of a crime; or

"Whoever receives, conceals, or retains the same with intent to convert it to his personal use or gain, knowing it to have been embezzled or converted—

"Shall be fined not more than $25,000 or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both. Notwithstanding the provisions of this section, any surplus or unexpended campaign funds may be contributed to a national or State political party for political purposes, or to educational or charitable organizations, or may be preserved for use in future campaigns for elective office, or for any other lawful purpose.".

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611, 614, 615, and 616".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"614. Limitation on expenditures generally.
"615. Limitation on contributions by individuals and on expenditures by certain other persons.
"616. Form of contributions.
"617. Embezzlement or conversion of political contributions.".

SEC. 21. The Federal Election Campaign Act of 1971 is amended by adding the following new title after title III and redesignating the existing title IV and the sections thereof accordingly:

"TITLE IV—ASSISTANCE FOR VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 401. This title may be cited as the 'Voter Registration and Election Administration Assistance Act'.

"DEFINITIONS

"SEC. 402. As used in this title—

"(1) 'Commission' means the Federal Election Commission;

"(2) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(3) 'political subdivision' means any city, county, township, town, borough, parish, village, or other general purpose unit of local government of a State, or an Indian tribe which performs voter registration or election administration functions, as determined by the Secretary of the Interior; and

"(4) 'grant' means grant, loan, contract, or other appropriate financial arrangement.

"FUNCTIONS OF THE COMMISSION

"SEC. 403. (a) The Commission shall—

"(1) make grants, in accord with the provisions of this title, upon the request of State and local officials, to States and political subdivisions thereof to carry out programs of voter registration and election administration;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning voter registration and elections in the United States;

"(3) prepare and submit to the President and the Congress on March 31 each year a report on the activities of the Commission under this title and on voter registration and election administration in the States and political subdivisions thereof, including recommendations for such additional legislation as may be appropriate; and

"(4) take such other actions as it deems necessary and proper to carry out its functions under this title.

"(b) The Commission shall not publish or disclose any information which permits the identification of individual voters.

"ADVISORY COUNCIL ON VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 404. (a) There is hereby established an Advisory Council on Voter Registration and Election Administration, consisting of the Chairman of the Commission, who shall be Chairman of the Council, and sixteen members appointed by the Chairman of the Commission without regard to the civil service laws. Four of the appointed members shall be selected from the general public, and four each shall be selected from the chief election officers of State, county, and municipal governments, respectively. No more than two of the appointed members in each category shall be members of the same political party.

"(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Chairman of the Commission at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(c) The Council shall advise and assist the Commission in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this title, including matters arising with respect to the review of applications for grants under this title.

"GRANTS TO DEFRAY COSTS OF EXISTING VOTER REGISTRATION AND ELECTION ACTIVITIES

"SEC. 405. The Commission is authorized to make grants to any State or political subdivision thereof for the purpose of carrying out voter registration and election administration activities. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"GRANTS TO IMPROVE VOTER REGISTRATION AND ELECTION ADMINISTRATION PROCEDURES

"SEC. 406. (a) The Commission is authorized to make grants to any State or political subdivision thereof to establish and carry out programs to improve voter registration and election administration. Such programs may include, but shall not be limited to:

"(1) programs to increase the number of registered voters or to improve voter registration, such as expanded registration hours and locations, employment of deputy registrars, mobile registration facilities, employment of deputy registrars, door-to-door canvass procedures, election day registration, re-registration programs, and programs to coordinate registration with other jurisdictions;

"(2) programs to improve election and election day activities, such as organization, planning, and evaluation of election and election day activities and responsibilities; improvements in ballot preparation, in use of absentee ballot procedures, and in voter identification, voting and vote-counting on election day; coordination of State and local election activities; and establishment of administrative and judicial mechanisms to deal promptly with election and election day difficulties;

"(3) education and training programs for State and local election officials;

"(4) programs for the prevention and control of fraud; and

"(5) other programs designed to improve voter registration and election administration and approved by the Commission.

"(b) A grant made under this section may be up to 50 per centum of the fair and reasonable cost, as determined by the Commission, of establishing and carrying out such a program. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"GRANTS TO MODERNIZE VOTER REGISTRATION AND ELECTION ADMINISTRATION

"SEC. 407. (a) The Commission is authorized to make grants to any State for planning and evaluating the use of electronic data processing or other appropriate procedures to modernize voter registration or election administration on a centralized statewide basis. A grant made under this section shall not be in excess of one-half cent multiplied by the voting age population of the State receiving the grant, or $25,000, whichever is greater.

"(b) The Commission is authorized to make grants to any State for designing, programing, and implementing a centralized statewide voter registration or election administration system as described in subsection (a) of this section. A grant under this subsection shall not be in excess of 10 cents multiplied by the voting age population of the State receiving the grant.

"GRANTS FOR VOTER EDUCATION

"SEC. 408. The Commission is authorized to make grants to any State or political subdivision thereof for the purpose of carrying out nonpartisan citizen education programs in voting and voter registration. A grant made under this section in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State or political subdivision receiving the grant, and the total amount of grants to any State and the political subdivisions thereof in any fiscal year shall not be in excess of 10 cents multiplied by the voting age population of the State.

"TECHNICAL ASSISTANCE AND FRAUD PREVENTION

"SEC. 409. The Commission is authorized to make available technical assistance, including assistance in developing programs for the prevention and control of fraud, to any State or political subdivision thereof for improving voter registration, election administration and voter participation. Such assistance shall be made available at the request of States and political subdivisions thereof, to the extent practicable and consistent with the provisions of this title.

"APPLICATIONS FOR GRANTS

"SEC. 410. Except as otherwise specifically provided, grants authorized by section 405, 406, 407, or 408 of this title may be made to States, political subdivisions, or combinations thereof. Such grants may be made only upon application to the Commission at such time or times and containing such information as the Commission may prescribe. The Commission shall provide an explanation of the grant programs authorized by this title to State or local election officials, and shall offer to prepare, upon request, applications for such grants. No application shall be approved unless it—

"(a) demonstrates, to the satisfaction of the Commission that the applicant has a substantial responsibility for voter registration or election administration within its jurisdiction, and that the grant will not involve duplication of effort within the jurisdiction receiving the grant or the development of incompatible voter registration or election administration systems within a State;

"(b) sets forth the authority for the grant under this title;

"(c) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title, and provides for making available to the Commission, books, documents, papers, and records related to any funds received under this title; and

"(d) provides for making such reports, in such form and containing such information, as the Commission may reasonably require to carry out its functions under this title, for keeping such records, and for affording such access thereto as the Commission may find necessary to assure the correctness and verification of such reports.

"REGULATIONS

"SEC. 411. The Commission is authorized to issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 412. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated, for the fiscal year ending June 30, 1974, and for the two succeeding fiscal years, the sum of $15,000,000 each year for sections 405, 406, 407, and 408."

SEC. 22. (a) Any candidate of a political party in a general election for the office of a Member of Congress who, at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, and each Member of Congress, each officer and employee of the United States (including any member of a uniformed service) who is compensated at a rate in excess of $25,000 per annum, any individual occupying the position of an officer or employee of the United States who performs duties of the type generally performed by an individual occupying grade GS-16 of the General Schedule or any higher grade or position (as determined by the Federal Election Commission regardless of the rate of compensation of such individual), the President, and the Vice President shall file annually, with the Commission a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from his spouse or any member of his immediate family) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity of each asset held by him, or by him and his spouse jointly which has a value in excess of $1,000, and the amount of each liability owed by him, or by him and his spouse jointly, which is in excess of $1,000 as of the close of the preceding calendar year;

(3) any transactions in securities of any business entity by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity exceeds $1,000 during such year;

(4) all transactions in commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $1,000; and

(5) any purchase or sale, other than the purchase or sale of his personal residence, of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000.

(b) Reports required by this section (other than reports so required by candidates of political parties) shall be filed not later than May 15 of each year. In the case of any per-

son who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Commission may prescribe.

(c) Reports required by this section shall be in such form and detail as the Commission may prescribe. The Commission may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

(d) Any person who willfully fails to file a report required by this section, or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

(e) All reports filed under this section shall be maintained by the Commission as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been President, Vice President, a Member of Congress, an officer or employee of the United States, or a member of a uniformed service, during any calendar year if he served in any such position for more than six months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodities Exchange Act, as amended (7 U.S.C. 2).

(4) The term "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(5) The term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate.

(6) The term "officer" has the same meaning as in section 2104 of title 5, United States Code.

(7) The term "employee" has the same meaning as in section 2105 of such title.

(8) The term "uniformed service" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the Commissioned Corps of the National Oceanic and Atmospheric Administration.

(9) The term "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouses of such persons.

(h) Section 554 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) All written communications and memorandums stating the circumstances, source, and substance of all oral communications made to the agency, or any officer or employee thereof, with respect to any case which is subject to the provisions of this section by any person who is not an officer or employee of the agency shall be made a part of the public record of such case. This subsection shall not apply to communications to any officer, employee, or agent of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case."

(i) The first report required under this section shall be due on the 15th day of May occurring at least thirty days after the date of enactment.

(j) Effective on the day after the date of this Act—

(1) section 304(f) of the Federal Election Campaign Act of 1971 is repealed;

(2) section 6(f) of this Act is amended—

(A) by striking out the paragraph designation "(1)", and

(B) by striking out paragraph (2) of such section;

(3) section 306(c)(1) of the Federal Election Campaign Act of 1971 is amended by striking out "(a)-(e)"; and

(4) section 316 of the Federal Election Campaign Act of 1971 is amended—

(A) by striking out of subsections (a) and (b) the phrase "(other than section 304(f))" wherever it appears; and

(B) by striking out subsection (c).

Any action taken under any provision of law repealed or struck out by this subsection shall have no force or effect on or after such day.

SEC. 23. It is the sense of the Congress that the salaries of Members of Congress, members of the President's cabinet, and members of the Federal judiciary shall not be increased in excess of the annual wage guidelines so long as wage and price controls continue.

The title was amended so as to read: "A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for Federal office, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and for other purposes."

Mr. CANNON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCOTT of Pennsylvania. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the enrolling clerk be authorized to make such technical and conforming changes within the bill as may be necessary to reflect, in the bill and in the Federal Election Campaign Act of 1971, the Communications Act of 1934, and chapter 29 of title 18, United States Code, the changes made in substantive law by the bill, and

That any new sections to be added to chapter 29 of title 18, United States Code, by amendments adopted by the Senate during the debate on this bill be placed under the primary jurisdiction of the Federal Election Commission.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

Mr. BIDEN. Mr. President, we have just approvd S. 372, the Federal Elections Campaign Act of 1973. Long hours of constructive effort have gone into shaping of this legislation. Senators of diverse political tendencies have made valuable contributions to the final product, because we are painfully aware of existing unsavory campaign financing practices that must be eliminated if confidence and faith both in our political system and in politicians are to be resumed.

The bill, in the form it has passed the Senate, has a hard road ahead. It and similar legislation await action by the House of Representatives. And then, undoubtedly, should this point be reached, a conference will be necessary to reconcile differences. In what shape the ultimate legislation will emerge is unclear.

It is frequently the custom to greet the passage of a major bill on a note of triumph—or, if one opposes the bill, on a note of despair. But events have a way of modifying our enthusiasms and our despairs. I am inclined to believe that the bill, if passed, will be a step in the direction of reforming the existing system of political financing. I say "the existing system" because I am not certain that the existing system of raising private funds to conduct public elections is salvageable. It may be or may not be. Too often, private money in political campaigns is funny money with unfunny results. I, myself, prefer that we shift to public financing of elections. And I thank the floor manager of this bill, Senator CANNON, the distingiushed chairman of the Senate Rules Committee, for his avowal to hold hearings later this year on public financing of elections.

In my opinion, the most valuable section of S. 372 may be the creation of an independent 16-member Federal Elections Commission, equipped with primary jurisdiction to bring criminal and civil court actions in respect to violations of campaign spending laws. I am not clear as to the consequences of the campaign-spending limits contained in the bill, as approved. It may be that it will strengthen incumbents and work against the efforts of challengers, that is, nonincumbents. It would be unfortunate if this were to prove to be the result. And, if so, the law in this respect should be changed.

Americans share a rising sense of dismay about abuses in our campaign-financing system. When we say that the American political system is the best that money can buy it is not a compliment, it is an epitaph.

Therefore, let us hope that this bill, if enacted, will bring about needed changes.

Change we should—and change we must. Otherwise, the Congress risks being pushed further to the outskirts of our society than it already is.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its readings clerks, announced that the House had passed, without amendment, the bill (S. 1993) to amend the Euratom Cooperation Act of 1958, as amended.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 42) providing for a conditional adjournment of the two Houses from August 3 until September 5, 1973.

COMMISSION ON FEDERAL ELECTION REFORM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn

to the consideration of Calendar No. 292, Senate Joint Resolution 110.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

Calendar No. 292 (S.J. Res. 110) a joint resolution to establish a nonpartisan commission on Federal election reform.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Rules and Administration with amendments on page 1, at the beginning of line 3, insert "That"; in the same line, after the amendment just stated, strike out "Section 1. This" and insert "this joint"; on page 4, line 3, after "(iii)", strike out "nine" and insert "eight"; at the beginning of line 8, strike out "seven" and insert "six"; in line 11, after the word "the", where it appears the first time, strike out "seven" and insert "six"; in line 13, after the word "Vice", strike out "Chairman" and insert "Chairman, who shall not be affiliated with the same political party,"; in line 25, after the word "level", strike out "II" and insert "III"; on page 5, line 22, after the word "by", strike out "law." and insert "law and the Constitution of the United States."; on page 6, line 11, after the word "service", strike out "or to classification and" and insert "but otherwise in accordance with"; on page 7, line 12, after the word "this", insert "joint"; and, at the beginning of line 21, insert "joint".

Mr. CANNON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT of Pennsylvania. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 7, line 15, strike "December 1, 1973." and insert in lieu thereof "one year from the date of enactment of this joint resolution."

Mr. SCOTT of Pennsylvania. Mr. President, the original intent of this resolution to establish a nonpartisan commission on Federal election reform was to have proposals presented to the Congress which could be considered and acted upon prior to the 1974 elections. However, the date of the proposed report, December 1, 1973, seems unreasonable as we view it now from late in July, and I would suggest a simple modification.

If, as expected, the Commission recommends major changes in election procedures, such as amendments to the Constitution, Congress will certainly need a great deal of time for study. Therefore, I suggest that the Commission report back to Congress 1 year from the date of enactment of the joint resolution. In this way, the Commission could be appointed, staffed and ready to go knowing that it would have some breathing room to produce a comprehensive report. Of course, the adoption of this amendment should not preclude final congressional approval this year of S. 372, which the Senate has just passed. I hope my amendment will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. CANNON. Mr. President, I support this Senate Resolution 110 to create a nonpartisan study commission. The commission may address itself to many areas of the elective process not within the scope of the Federal Election Act Amendments, S. 372, which the Senate has just passed.

Mr. President, I want to emphasize that my approval of a study commission should not be construed, by any means, as a lessening of effort by Congress to press for early approval of S. 372, the Federal Election Act Amendments of 1973.

That Act is vitally necessary in order to provide more effective controls over campaign contributions and expenditures and the enforcement of the act by the Federal Election Commission.

With that clear understanding I am happy to lend my support toward the adoption of Senate Joint Resolution 110.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 110) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The joint resolution (S.J. Res. 110), as amended, was passed.

The preamble was agreed to.

The joint resolution, as amended, with its preamble, reads as follows:

Whereas the strength of our democracy rests on the integrity of our political processes;

Whereas the confidence of the public in the integrity of these processes must be assured;

Whereas the Congress and the President recognize the need to establish an impartial commission to study the conduct of election campaigns and to make recommendations concerning future practices: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assmbled, That this joint resolution may be cited as the "Election Reform Commission Act of 1973".

SEC. 2. There is hereby established an independent commission, to be known as the Nonpartisan Commission on Federal Election Reform (hereinafter referred to as the "Commission").

SEC. 3. The Commission shall—

(a) Conduct an extensive and exhaustive study of the practices engaged in by political parties and individuals in the course of Federal political campaigns, which might include, but would not be limited to, such matters as—

(i) the adequacy of procedures for the enforcement of existing laws relating to political campaigns and campaign financing;

(ii) the existing and alternative methods of financing political campaigns and limitations on campaign spending;

(iii) the review of Federal tax laws as they relate to the financing of political campaigns;

(iv) the purposes for which money is expended in political campaigns, such as development of campaign organizations, campaign advertising, voter registration, and polling;

(v) the methods and procedures by which candidates are nominated for Federal office by political parties;

(vi) the adequacy of safeguards against unethical, disruptive, fraudulent, violent, or otherwise wrongful campaign tactics;

(vii) the interrelationship of Federal, State, and local campaigns, and of Federal, State, and local laws relating to campaigns and campaign financing;

(viii) the length of the period over which candidates are required to campaign for nomination and election to Federal office.

(b) Consider the advisability of changing the term of office of Members of the House of Representatives, or the Senate, or the President of the United States.

(c) Make recommendations for such legislation, constitutional amendment, or other reforms as its findings indicate, and in its judgment are desirable to revise and control the practices and procedures of political parties, organizations, and individuals participating in the Federal electoral process.

SEC. 4. The Commission shall consist of the following members:

(i) four Members of the Senate, two from each of the major political parties, appointed by the President of the Senate as recommended by the majority and minority leaders;

(ii) four Members of the House of Representatives, two from each of the major political parties, appointed by the Speaker of the House of Representatives;

(iii) eight individuals from private life to be appointed by the President of the United States, two of whom shall be the respective chairmen of the national political parties having polled the highest and second highest vote pluralities in the last national election, and six of whom shall be selected from the general public on the basis of their experience and expertise in public service or political science. No more than four of the six selected from the general public shall be members of the same political party;

(iv) the Chairman and Vice Chairman who shall not be affiliated with the same political party, shall be designated by the Commission from among the members of the Commission.

SEC. 5. (a) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Each member of the Commission who is appointed by the President is entitled to pay at the daily equivalent of the annual rate of basic pay of level III of the Executive Schedule for each day he is engaged on the work of the Commission, and is entitled to travel expenses, including a per diem allowance in accordance with section 5703(b) of title 5, United States Code.

SEC. 6. The Commission shall adopt rules of procedure to govern its proceedings. Vacancies on the Commission shall not affect the authority of the remaining members to continue with the Commission's activities, and shall be filled in the same manner as the original appointments.

SEC. 7. (a) The Commission, or any members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and

expressions of opinion pertinent to its study. In connection therewith the Commission is authorized to pay witnesses travel, lodging, and subsistence expenses.

(b) The Commission may require directly from the head of any Federal executive department or agency or from the Congress, available information which the Commission deems useful in the discharge of its duties. All Federal executive departments and agencies and the Congress shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law and the Constitution of the United States.

(c) The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(d) The Commission may delegate any of its functions to individual members of the Commission or to designated individuals on its staff and make such rules and regulations as are necessary for the conduct of its business, except as otherwise provided in this joint resolution.

SEC. 8. (a) The Commission may, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service but otherwise in accordance with General Schedule pay rates, appoint and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission.

(b) The Commission may obtain services in accordance with section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed the rate authorized for GS–18 under the General Schedule.

(c) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, on a reimbursable basis, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of that Administration for the administrative control of funds apply to appropriations of the Commission.

SEC. 9. (a) The Commission shall submit to the Congress and the President such interim reports and recommendations as it considers appropriate, and the Commission shall make a final report of the results of the study conducted by it pursuant to this joint resolution, together with its findings and such legislative proposals as it deems necessary or desirable, to the Congress and the President at the earliest practicable date, but no later than one year from the date of the enactment of this joint resolution.

(b) Ninety days after submission of its final report, as provided in subsection (a) above, the Commission shall cease to exist.

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution. Any money so appropriated shall remain available to the Commission until the date of its expiration, as fixed by section 9(b).

Mr. CANNON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SCOTT of Pennsylvania. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the conference report on the bill making appropriations for public works today, the Senate then proceed to the consideration of Calendar 305, S. 5, a bill to promote the public welfare, on which there will be no action today, only opening statements. Therefore, no rollcall votes are expected today.

Mr. GRIFFIN. Mr. President, reserving the right to object, I wonder if the distinguished majority whip would permit me to have a quorum call, so that I may confer briefly with him.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I temporarily withhold my request with respect to laying before the Senate S. 5 following the conference report.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1914

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having been authorized by the distinguished majority leader to do so, that at such time as Calendar Order No. 337, S. 1914, a bill to provide for the establishment of the Board for International Broadcasting to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes, is called up and made the pending business of the Senate, there be a time limitation for debate on the bill of 4 hours, to be equally divided between and controlled by the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Vermont (Mr. AIKEN);

That time on any amendment thereto be limited to 1 hour, with the exception of an amendment by Mr. FULBRIGHT, on which there be a 2-hour limitation;

That there be a one-half hour time limitation on any debatable motion, appeal, or amendment to an amendment; and

That the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 1914, the so-called Board for International Broadcasting Act of 1973, debate on any amendment (except an amendment to be offered by the Senator from Arkansas (Mr. Fulbright), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Arkansas (Mr. Fulbright) and the Senator from Vermont (Mr. Aiken): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATIONS BILL, 1974—CONFERENCE REPORT

Mr. BIBLE. Mr. President, I submit a report of the committee of conference on H.R. 8947, and ask for its immediate consideration

The PRESIDING OFFICER (Mr. HELMS). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8947) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs,

the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 26, 1973, at pages 26223–26230.)

Mr. BIBLE. Mr. President, naturally the Senate conferees could not uphold all of the projects and items for which the bill provided as it passed the Senate.

I am happy to say, however, that the Senate position was agreed to on the majority of items and projects where there was a difference between the House and Senate allowances.

The conference agreement provides a total of $4,749,403,000 in new budget obligational authority, which is $23,579,000 below the amount approved by the Senate; $73,008,000 over the House bill; $8,066,000 below the budget estimates; and $908,753,000 below the comparable appropriations for fiscal year 1973.

As these figures indicate, particularly in comparing the appropriations for this fiscal year and the past fiscal year, the conference action conforms to the conscientious and determined effort on the part of Congress to hold the line on expenditures and to try to make reductions. I emphasize that the appropriations provided by this Appropriation Act, as recommended by the conference committee, are almost $1 billion less than the amount appropriated for fiscal year 1973.

Mr. President, I would like to take a moment to commend the distinguished chairman of the Subcommittee on Public Works-AEC Appropriations of the House of Representatives, Representative JOE L. EVINS, for his diligence and cooperation in working out the differences in the bill as passed by the House and the Senate. Likewise, I would like to thank and commend the members of the conference committee for the very careful and fair consideration given to all matters in disagreement.

Inasmuch as the report of the conference committee has been printed, I shall not undertake to itemize the various changes on the many projects and items that were in disagreement. Briefly, however, I shall state the recommendations for the major agencies contained in the conference bill.

For the Atomic Energy Commission, the conferees agreed on a total of $2,336,538,000. This amount is $34,150,000 above the House allowance, and $11,800,000 below the amount allowed by the Senate. For the Corps of Engineers, civil works program, new budget obligational authority in the amount of $1,529,439,000 was approved, which is $27,423,000 above the House bill, and $7,612,000 below the amount approved by the Senate. For the Bureau of Reclamation, the conference allowance is $367,793,000. This is $11,435,000 more than the House allowed, and $4,167,000 below the Senate allowance.

There was no disagreement between the House and Senate allowances for the power agencies of the Department of the Interior and the other independent agencies and Commissions funded in this bill such as the Appalachian regional development programs, Federal Power Commission, the Tennessee Valley Authority, and others.

Mr. President, as I stated earlier, the conference agreement for the total bill is $8,066,000 below the budget estimates. The amount allowed on a number of projects and items, of course, exceeds the budget estimates in some cases, and is less than requested in others. The House and Senate committees provided for additional funds in those cases where we believed that the budget estimate was inadequate for efficient operations during the current year; and, in addition, both the House and Senate included in their separate bills a modest number of new starts on planning and on construction.

There is no question but that the Congress has the prerogative to make adjustments in the budget requests and establish its own priorities to the extent it believes necessary; and that is exactly what we did in this bill. The committee believes that the funds agreed to in conference are necessary and well justified.

Mr. President, I am happy to yield, first, to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I want to commend the distinguished acting chairman of the Public Works Subcommittee, the senior Senator from Nevada (Mr. BIBLE). From the outset of the hearings to the conclusion of the conference with the House, he has done an outstanding job. I also want to commend the distinguished ranking member, the Senator from Oregon (Mr. HATFIELD), for the very fine job he has done.

Mr. President, I believe the Senate will be pleased with the result of the conference. The conference is recommending funds for Public Works and the Atomic Energy Commission that is $8 million below the budget estimates. However, the Senate was able in conference to hold nearly 70 percent of the additional funds added by the Appropriations Committee to the House bill.

Mr. President, this is a very difficult bill, and with many very worthwhile projects involved. I think the conferees have done a very fair and reasonable job.

Mr. BIBLE. Mr. President, I appreciate the sentiments of the distinguished Senator from North Dakota. This is a difficult job, and I appreciate his comments.

I would like to observe, among other things, that this is the first regular 1974 Appropriation Act to clear Congress, and in view of the fact that it is $8 million under the budget, I certainly see no reason why it should not be immediately signed by the President of the United States.

I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, the Senator from Nevada was most courteous and helpful in his consideration of some of our reclamation projects in Colorado which were not funded by the House of Representatives. For example, the Senate put in, I believe it was, $1 million for construction on the Narrows project.

Mr. BIBLE. That is correct, and we retained that in conference.

Mr. DOMINICK. That was what I wanted to ask. I did not see it in the conference report.

Mr. BIBLE. It should be in the conference report. Perhaps I can turn to it quickly, but we did sustain the $1 million for the Narrows project.

Mr. DOMINICK. I thank the Senator from Nevada. I am extremely pleased with that result.

Mr. BIBLE. The Senator will find that item on page 29 of the conference report on the "Public Works AEC Appropriations, 1974" (H. Rept. 93–409). It is on the right hand page at the top: Pick-Sloan Missouri Basin program; Colorado-Narrows unit, $1 million. It is the 10th item from the top of the page.

Mr. DOMINICK. I see. I was thrown off by "Pick-Sloan." I thank the Senator.

Mr. BIBLE. I simply want to comment that we did the best we could to increase several of the Bureau of Reclamation and Corps of Engineers items, because we are in an energy crunch and a power shortage. For example, we were successful in including money for additional generating units for the Pacific Northwest and we sustained it in the conference. Several projects include hydroelectric power which is pollution-free and they should be brought on-line as quickly as possible.

Mr. DOMINICK. The Senator and I have been working together on these projects for quite a while. I very much appreciate his thoughtfulness and courtesy.

Mr. BIBLE. Also, it is unfortunate, I think, that the administration this time chose to zero in so deeply on worthwhile reclamation projects. I hope that attitude can be turned around.

Mr. COOK. Mr. President, will the distinguished Senator from Nevada yield to me?

Mr. BIBLE. I am very happy to yield to the distinguished Senator from Kentucky.

Mr. COOK. Mr. President, I see, with a degree of alarm—and I say this because I do not know how long I can drag out the fight—but I see with some degree of consternation that the $1,720,000 allotment for the Paintsville Lake which had been deleted from the Senate version, was accepted in conference, so that it is now up to us to pass judgment on it.

I feel that one fights a good fight, but if I were to put this to a vote in the Senate, I would be asking my colleagues to vote on something they know absolutely nothing about.

I wish to get into a discussion with the distinguished Senator from Nevada, because I am not through with the consternation I feel over the problems that exist relative to this particular project.

I must say to the Senator from Nevada that I am really not through "bugging" the Corps of Engineers, or "bugging" the Office of Management and Budget relative to how, as a matter of

fact, this money shall be spent. I raised this question in the committee and in the subcommittee relative to this particular project, and the fact that the Corps of Engineers in its environmental impact study had made no evaluation of the particular valley that will be flooded as a result of the project, and the fact that since the turn of the century there have been wells drilled up there not only for oil but also for gas, and they have no knowledge—I repeat, the Corps of Engineers has absolutely no knowledge whether the gas wells and the old oil wells have been plugged.

As a result, we face several serious problems there, one of them being that if this dam is built and they start to fill in, that, conceivably, could tend to act as an absolute percolating effect to the nonplugged, old oil wells and what we would have with the total expenditure of some $31 million would be a dead lake the day it was completed, because it would completely destroy the water quality of the lake and would completely make it inadequate for any aquatic life whatsoever.

I must say to you, Mr. President, that I think this is tremendously distressing. I will pursue to my utmost the curtailment of the expenditure of these funds until the Corps of Engineers takes the project on, and the Corps of Engineers makes a determination.

Further, we have evidence that if this dam is built, there are serious siltation problems so serious they could even require the lake to be dredged every 5 to 10 years—as a matter of fact, the report made to my office from a water resource organization shows it would have to be dredged on the average of once every 8 to 10 years. If this were the case, obviously, the cost of maintenance would be tremendous.

We have also been told that the original ratio of expenditures to the necessity for sustaining the project are now well below 1 to 1. I absolutely believe that it is this Senator's responsibility to pursue this matter and see to it that these things are taken into consideration and that the Corps of Engineers, rather than deciding it, will have two meetings with the citizens in a given area in a matter of years in order to make determination that the project should go through, will realize its responsibility to the public involved.

There is also a serious question in my mind for a long time—and which I have been talking to the Senator from Nevada about—I cannot get through my mind the justification requirements for the Corps of Engineers to demand the taking, under eminent domain, of some 13,954 acres of land for an 840-acre lake. That ratio just seems unbelievable to me. I cannot understand it, unless the corps is responding to the proposition that it will acquire what it wants and then turn over the development of the balance to the U.S. Forest Service, so that the Forest Service, which does not have this right to acquire, can acquire utilization of the land for purposes that it might deem to be in the best interests of development for the Forest Service, but they do not have the legal right to come in and condemn.

So I must say to the Senator that I will pursue this matter—and I know that he knows that I will—because we just cannot fool the people of eastern Kentucky and tell them that they will have conceivably this great resource, that they will have this source of pure water when, in fact, they can have an absolutely dead lake at the time it is developed, at the time it is opened to the public.

It is my responsibility to see that that does not happen. I must say that I will pursue this matter as vigorously and as hard as I can. I cannot win if I cannot have a rollcall vote not to delete this $1,720,000 project. It would be unfair to the Senator from Nevada. It would be unfair to my colleagues in the Senate who obviously are not here and who know absolutely nothing about the project.

But I feel that these are unanswered questions. I have had several meetings with the Corps of Engineers. They have not been able to answer those questions. Therefore, I would seriously like the assurance of the distinguished Senator from Nevada, knowing that these things exist, that he will help him in seeing to it that these questions are honestly and logically answered so that we can know if, in fact, this Senator has to bite the dust on the project, it will be a project that will be an honest reality and not a dead lake.

Mr. BIBLE. I understand. Obviously, I was very sympathetic with the position of the senior Senator from Kentucky. I was so sympathetic with his viewpoint that I recommended to the Senate Committee on Appropriations that we take the money out of the Senate bill, which would put the whole issue in conference. This recommendation was approved by the committee and the Senate and no funds were provided for this project in the Senate version of the bill.

The Senator has my assurance that the committee and the Congress can review this project at any time at this very early stage of the project.

I may say also that the subcommittee went back to the Corps of Engineers after the very impressive arguments made by the Senator from Kentucky and others, and we received testimony from the corps about this matter. We inquired about several of the very points the Senator from Kentucky is raising now. The corps answered some of those points, or attempted to answer them. They went into the geologic fault question. They went into the oil and gas wells question. They went into the benefit-cost ratio question.

Mr. President, I ask unanimous consent that an excerpt from the transcript of the latest testimony we secured from the Corps of Engineers on the Paintsville project be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

EXCERPT FROM HEARINGS BEFORE THE U.S. SENATE COMMITTEE ON APPROPRIATIONS, PUBLIC WORKS-AEC APPROPRIATION, FISCAL YEAR 1974

OPPOSITION

Senator BIBLE. We have opposition testimony from Mr. Brent Blackwelder, of the Environmental Policy Center, and others, who testified that over 3,000 oil wells are to be found in the drainage basins for the Paintsville and Yatesville Dams. It is felt that the Corps of Engineers may not fully understand the potential implication of this fact or has not properly disclosed them to the public.

Colonel EINEIGL. We are aware of the oil wells in the two basins. Approximately 45 producing oil and gas wells are located within the acquisition limits of the Paintsville project. There are 38 producing oil and gas wells within the acquisition limits of the Yatesville project. All oil wells are low producers with records showing that production has declined approximately 70 percent since 1964. All wells on project lands will be acquired in fee and all leases extinguished except in the producing well area of the Paintsville project. In that producing area, running about midway through the reservoir, oil and gas will be acquired in fee and leases appropriately subordinated to project purposes.

Based on the reported 3,000 oil wells in the drainage basins, this would average approximately 64 oil wells per acre. The Corps has not made a detailed listing of wells outside project limits, but from a general reconnaissance of the basins the above average number of wells per acre seems high. One exception, however, is two areas just outside acquisition limits of the Paintsville project where oil well density runs as high as 70 wells per acre. Most of these wells are either owned or being purchased by Ashland Oil and Refining Co. and are being operated efficiently with stream pollutants being under control.

Senator BIBLE. Mr. Brown, of the Committee on Paintsville Lake, testified that a geologic fault exists under the area to be covered by the proposed reservoir. What problems will this cause and did the Corps know of its existence prior to their request for funds?

Colonel EINEIGL. The existence of the faults in the vicinity of the Paintsville project has been known for many years. The location and description are contained in numerous publications. The Corps was aware of the subsurface conditions during survey report studies in the 1960's. In addition, a geologic reconnaissance of the proposed Paintsville reservoir area was conducted during the early design stage with all structural features being mapped and evaluated, including the faults in the area. Due to the age of the structural features, reservoir induced seismic activity is not anticipated in the Paintsville area. Design of the Paintsville dam and appurtenances, however, will include considerations for seismic accelerations which is a current design procedure for all Corps of Engineers reservoir projects. In this regard, an expert in the field of geophysics will assist in the evaluation of the geophysical aspects of the Paint Creek fault. No problems in developing a proper design are anticipated.

Senator BIBLE. Mr. Brown also testified that the economic loss that would result from building the reservoir is at least $8 million more than the benefits as calculated by the Corps. Are these estimates valid and if so, what is the implication?

Colonel EINEIGL. The 12 April 1973 issue of the Licking Valley Courier (West Liberty, Kentucky) reported that land owners in Johnson and Morgan Counties had added up their estimates of the value of their

homes, farms, and tobacco bases and concluded that the total worth of these assets exceeded by $8,000,000, ". . . the 40 million dollars the Corps claims the dam and park would be worth to motel owners and the state of Kentucky which would operate the recreational area." It is unlikely that assets included in the landowner's estimate are identical to those that would be acquired for project purposes or that their estimate of the value of such assets is in accord with standard real estate appraisal practices. Other questions concerning the time period, the discount rate, and projected selling price of tobacco and land utilized in this estimate also remain unanswered. The origin of the $40,000,000 amount mentioned above is unknown.

From a national economic standpoint, studies indicate that project benefits exceed project costs. Although no regional economic analysis has been accomplished for this project it seems clear that expansion benefits should greatly exceed average annual project costs. Studies of the effects of public investment in water resources on local tax base has repeatedly shown that such investments result in an increase in tax base within a relatively short period.

Senator BIBLE. It is reported that 1,200 people representing an estimated 95% of the valley's property owners signed a petition in opposition to the construction of the dam. It appears that no, or little, consideration is being given to the feelings of the people. Shouldn't the people's considerations be a major factor in any decision to build the dam?

Colonel EINEIGL. The petition referred to was presented to the District Engineer at the land-owners meeting in Paintsville on 27 April 1972. While it contains 1151 names, there are numerous duplications in signatures. Our study indicates that only 66 signers are owners of property within the project area. This is less than 6% of all those who signed the petition, and approximately 20% of all owners in the area. In every project the Corps of Engineers is directed to study, the concerns and interest of the public at large are carefully considered. While it is recognized that in any water resources project numerous people are adversely affected, in formulating such project, it is necessary to consider the benefits to the general public, often over a large area, which result from the several project purposes.

Senator BIBLE. It has been reported that 76 cemeteries with 1,856 graves would have to be moved. What is your comment on this matter?

Colonel EINEIGL. The procedures developed by the Corps for handling this type relocation do take into account the feelings of the next of kin. Generally we try to relocate all cemeteries affected by a project into a single new cemetery for each county affected. After the reinternment site is selected we make an exhaustive effort to contact the next of kin. Relatives are asked to select the section of the new cemetery they would like the grave to be moved into and are given the opportunity to reserve adjacent plots for future family burials. After these contacts are made with the next of kin and the Courts approve our plans, a contract is awarded for the development of the new cemetery and for the actual disinterment and reinterment of the graves. Grave markers and monuments are re-set on the new site and markers are provided for all unmarked graves. Once all the cemeteries are relocated, the new site is deeded to a trustee group or to a cemetery association. Under such an arrangement we can be reasonably assured that the new cemetery will be properly maintained.

Mr. BIBLE. We even had comments in opposition from the wonderful people of Paintsville dealing with the cemetery problem. We asked the corps for their comments about that.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. BIBLE. I should like to finish my statement, and then I will be happy to yield.

I assure the Senators from Kentucky that this project will receive constant review.

I should point out, as the Senator said, that this is a $31 million project. The corps has expended approximately $1,973,000 on Paintsville Lake to date. The budget request was $1,720,000, the figure we in the Senate deleted to put it in issue, and there is also $300,000 in reserve. So for the fiscal year they have $2 million available for expenditure.

We will certainly undertake a review of this project and we will call the Corps of Engineers before us as frequently as the Senators would like.

I must say that there are different viewpoints here, particularly from the Representative who lives in the district. He was the main proponent of the project. He came over and testified very strongly in favor of the project before our committee.

I am advised—and I think the advisers are correct—that the State of Kentucky has provided the assurances of local cooperation, cost-sharing, and so forth. The corps has said that, from an engineering standpoint, there should be no problem in locating and plugging the oil wells that might pollute the reservoir. They are of the opinion that it is an economically feasible project, and they have so stated.

Mr. COOK. The fact that they have said this can be done is a degree of assurance to me, because in their environmental impact study they never mentioned it. This is what concerned me, because it is obvious that they have made no survey to locate them, and this is what absolutely has to be done.

I must say to the Senator that I am going to keep a very candid eye on this project.

Mr. BIBLE. I am sure the Senator will, and he should.

I do not know whether this project is as valid as they say it is. For that reason, I know the Senator well enough that I can rest assured that he will follow it every step of the way. But this is really just the start of the project and if it appears that these viewpoints cannot be sustained, now is the time to take the necessary action.

Mr. COOK. I say to the Senator from Nevada that I am delighted he got those answers from the Corps of Engineers, because I requested them and I did not get them.

Mr. BIBLE. They may not completely answer all the problems the Senator has. I have dealt with the Corps of Engineers and the Bureau of Reclamation, and many times I have not been satisfied with all of their answers. I cannot say whether these answers will satisfy the qualms and the concerns, the justifiable concerns, of the wonderful people of Paintsville. I thought they made a case. I know they are losing land. Any time anyone loses land, farms and cemeteries, covered by water, it raises great problems of relocation. They have lived there for a lifetime and have to find other places to live.

I am very sympathetic, and we will constantly take a close look at this again next year. This project is in the very early stages. This is the first substantial construction money. The other has been preliminary engineering and designing.

I yield to the junior Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator from Nevada for yielding.

Mr. President, I commend the senior Senator from Kentucky for appropriately raising these serious and legitimate concerns about this project. As the project progresses, the Corps of Engineers and all those who have advocated this project are on notice that they must supply the answers to these very serious problems.

As the chairman has indicated, this project has been nurtured along by the Representative of the Seventh District of Kentucky, in whose district it lies, the Hon. CARL PERKINS. He is convinced in his own mind and is very strongly supporting the project as being one that is in the best interests of the people of his district and the people of Kentucky.

I believe we should continue to insist that the Corps of Engineers and all those connected with the project make every effort to answer these objections and to provide the assurances that these concerns are taken care of as this project progresses.

Mr. BIBLE. I personally pledge, individually, to undertake an oversight of this project, because it does have problems. After the Senators from Kentucky have examined what the Corps of Engineers say in response to questions we asked in the committee, if the Senators have other questions and furnish them to me, we will see that they are answered.

Mr. COOK. Mr. President, unfortunately, there has been speculation that this is a political fight between the Representative from the seventh district and myself. He is a friend of mine. I hope he would say the same of me.

No question of politics is involved in this issue. The only politics is the reality of making an absolute determination, which is our responsibility, as to whether the project meets the criteria and whether the project, if in fact it is concluded, is done in a proper manner.

That is not politics. If it is, it is the politics of logic, and that is what we are here for. There are no political motives on the part of this Senator. As a matter of fact, if the Senator from Nevada would read my mail, he would understand that the political motives probably would be the other way.

I assure the Senator from Nevada that my interest in this project is to see whether, in fact, the Corps of Engineers has made the right decisions—whether the Corps of Engineers has made the right decision in its acquisitions, has made the right decision that construction can proceed, has made the right decision

relative to the system as it now presents itself in that part of Kentucky, that the fault that lies just east of the dam site, with the conceivability of unplugged gas and oil wells, could reduce this lake to a puddle of goo. This Senator is going to see that that does not happen.

If that is politics, then it is the responsibility of the political system to see that if any expenditures are made, they are made in the proper and correct fashion; and I know that the Representative from the Seventh District of Kentucky would feel the same way.

Mr. BIBLE. I wish to add something that I do not think I mentioned at the beginning of our discussion.

This project was initially authorized by Congress. So the corps went forward under a mandate of Congress.

I again urge the Senator—I do not need to urge the Senator, because I know he will do it—to read the corps' justification and their reply to questions I asked pursuant to the doubts I had about this project. Then we will follow through again on another day.

Mr. HATFIELD. Mr. President, much has been said about the need for Congress to pass bills that are fiscally sound. The President made a case to the public that Congress contains big spenders and budget busters. I want to note, therefore, that our bill is slightly under the administration budget request, by about $8 million. I certainly hope, therefore, that there will not be efforts by the OMB and its operatives to impound funds included in this bill.

Those of us with a background in studying public works projects recognize that nearly all of these will add to the economic base of the local community where the project is located. What we do across the country is to enhance the economic foundation of a community when we invest funds on a local public works project. I stress the word invest, for this really characterizes the expenditure of these funds. We are investing in the economic future of many areas of the country.

By underpinning the economic foundation, we create in most cases increased tax revenues. These increased tax revenues from a local area mean more taxes to the Federal Treasury. I want to emphasize this to the people at OMB—by investing money in public works, we are generating more taxes into the Federal Treasury. Just as important are the increase in State and local taxes that occur. This translates into better schools, better fire and police protection, and the host of other local projects funded at the State and local level.

In addition, many of the public works projects are located away from population centers. There has been a lot of rhetoric about the need to diversify and spread out the population of this country, to spread it out away from the growing suburban sprawl that has spread out from existing population centers. I am committed to fight for such a diversification, and this public works appropriation bill does much to enhance the economic viability of the rural areas and small towns of this country.

Turning to another aspect of this bill, I need not mention that aspects of the energy crisis are upon us. We must act, and no amount of rhetoric or promises or determination can escape the need to spend money to solve these questions.

We need to put more power on the line now, plus investigate alternative energy sources. In the Northwest, we have the capacity to better utilize our existing hydro projects on the Columbia and Snake Rivers. We must add power generating facilities to meet the power needs of this section of the country.

In addition to these short-term needs, we must push research in other areas. I am pleased that this bill adds funds for thermonuclear fusion research, geothermal research, and solar research in amounts in excess of the original budget request.

The specifics of these are spelled out in the bill, but I wanted to make note of them. I hope that the budget officers at OMB will recognize that funds are needed for this research and that any impoundment of these funds only will fly in the face of the administration commitment to help solve our energy crisis. Having talked with John Love about his own commitment to working toward solutions to this problem, I know he is aware of the need to move ahead.

In closing, I want to thank my Senate colleagues for the support they give us on this bill. Senator BIBLE worked ably in behalf of all the Senate additions, and as usual, exhibited his mastery of this very complex issue. Also, Congressmen JOE EVINS and JOHN RHODES put forward the House position in their usual positive fashion.

We have in this conference report a good bill, a fiscally sound bill, and one that addresses the growing energy needs of this country. It provides added hydro power to the Northwest section of the country, where it is needed and needed now. It also provides critical funding for added research for new energy sources.

Mr. BIBLE. Mr. President, if no one else wishes to be heard on this appropriation bill and conference report I move that the conference report be agreed to.

The motion was agreed to.

GOUGH WHITLAM, AUSTRALIA'S NEW PRIME MINISTER

Mr. MANSFIELD. Mr. President, the Government of the United States and the Senate are having the privilege today of meeting with the Honorable Gough Whitlam, Prime Minister of Australia.

I had hoped it would have been possible to bring the Prime Minister to the floor of the Senate. He is an elected member of Parliament and, therefore, a colleague of ours, an associate; but too much of the time he had at his disposal has been taken up and he is now due in the Committee on Foreign Relations.

Mr. President, I have read some interesting articles about Mr. Whitlam. One is entitled "Whitlam: Forging a New Nationalism," written by Ross Terrill, who, by the way, is an Australian-born writer who teaches government at Harvard. He knows the Prime Minister of Australia very well and accompanied him on a visit to China early last year I believe it was. Also, an accompanying article entitled "A Terse, Tough Aussie 'PM'", written by Mr. Terrill.

Mr. President, I think that this distinguished visitor of ours is a man who represents a new outlook. He is a new type. He is an independent ally. He is a staunch friend. He is a man able to make up his own mind and express his own judgments. He is a man who believes in the American Connection—if I may use that term—because the basis of Australia's foreign policy is tied to ANZUS, but not only to ANZUS because Australia is seeking to develop wider contacts and in so doing to establish its sphere of influence.

As a nation probably located, if it could be located, in the middle, between the small powers and the big powers, under Prime Minister Whitlam, Australia is charting a new course.

Mr. President, I ask unanimous consent that the articles I previously referred to, and an editorial published in the Baltimore Sun today, entitled "Australia's New Prime Minister," be printed in the RECORD.

There being no objection, the articles and the editorial were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 29, 1973]

WHITLAM: FORGING A NEW NATIONALISM

An election does not change a nation, but it can remind a nation of change that has been occurring, and of more that must come. Like a mirror suddenly held up, the election of the Labor Party last December did this Down Under.

A new nationalism has arisen, from a growth of cultural confidence and economic strength, and from the recognition of declining Western power in Asia. That is what the new Australian prime minister, Gough Whitlam, will try to convey in his visit to President Nixon this week.

After 23 years of rule by the Liberal Party, whose top figure, Robert Menzies, called himself "British to the bootheels," the Labor government has vented latent nationalism by interring the secondhand relic of British knighthoods and other "honors" and by sending to London an ambassador who remarked as he left that it was only a matter of time before Australia became a republic.

After two decades of a foreign policy based on fear of China and loyalty to the United States, Australia's new government in its first month recognized Peking and dropped Taipei, withdrew the remaining Australian troops from Vietnam, ended military aid to Saigon and sent a message to Mr. Nixon protesting the Christmas bombing of North Vietnam.

A small revolution in official values and priorities is also under way. Exit leaders for whom "the permissive society" was a twin serpent to that of "international communism." One Liberal (conservative) minister had prohibited the import of "The Carpetbaggers," "Last Exit to Brooklyn" and "The Ginger Man." Another had thrown out the maxim, "More important than pollution of the air, soil and water is pollution of the mind."

Enter leaders who had lost nine successive elections in which variations of these two catchcries counted heavily on the Liberal side. Now, banned books and films are available like spring flowers after winter. Divorce is being made simpler and cheaper. The death penalty has been abolished in all federal territories. A sales tax of 27.5 per cent on contraceptives has been done away with, and oral contraceptives are now subsidized under the national health program. Equal pay for wom-

en is being introduced. Remnants of racism have been removed from the laws, the draft has been ended and imprisoned draft dodgers set free.

"IT'S TIME"

Why did the turnabout come? The conservative coalition of the Liberal Party and the smaller Country Party had begun to crumble and lose the low-key respect which a prosperous, rather sleepy electorate had paid it from the Cold War until Vietnam. Labor's 1972 campaign slogan was simply, "It's Time."

Second, certain long-term changes have been taking place in Australia which Whitlam's Labor Party was most suited to grasp and embody. Most Australians live in big cities whose problems have mushroomed almost on the American scale. The Liberals, in part because their Country Party partners speak for the wheat, wool and dairy industries, were slow to map blueprints for urban areas. Whitlam, experienced in the dilemmas of sprawling urbanism and ready to employ central power to tackle them, had been busy on attractive policy proposals. The crucial voting swing to Labor in 1972 was in the neglected peripheries of Melbourne and Sydney.

Whitlam cashed in also on the new sense of living in Asia which young Australians have. Labor spoke of Asia as the place of Australia's destiny, while the Liberals portrayed it as a troublesome environment to be warded off where possible and patronized where not.

Labor's progressive policies were matched by a lively campaign, oiled with beer, music and pretty girls, attuned to youth, the cultural middle class, women and the new mood of nationalism. In a way, Labor did little more than catch up with a ferment of fresh values and ideas which the Liberals had failed to get abreast of.

Finally, the voters found Whitlam way out ahead of the Liberal prime minister, William McMahon, as leader, thinker and charmer.

"HIGH-HANDEDNESS"

After six months in office the Labor legislative program's chief motif is greater social and economic equality. Nationalization of industry is not in the cards (nor could be for constitutional reasons) but tax reform, big spending on education and sweeping proposals in health and other social welfare areas will restore something of Australia's past egalitarianism.

The Labor cabinet is uneven in capability, however, and Whitlam himself does not have the economic expertise to iron out problems caused by conflicting priorities, and especially by the specter of inflation—the thorniest issue, since a Labor government cannot easily be tough with the powerful trade unions.

The social programs, too, are producing grumbles from doctors and other professionals who had an easy ride under the Liberals, and these people are influential in just those suburban electorates which gave Labor its 1972 plurality.

Another problem for Whitlam is that some of his methods have aroused cries against "high-handedness" in a population wary of all politicians. His zeal to tip the balance of federalism more toward the center to carry out his new policies has got him into deep water with the state governments, even those led by Labor men. State officials have flown to London to object to Canberra's efforts at securing jurisdiction over offshore resources, and at abolishing the right of legal appeal to the British Privy Council. Whitlam's centralizing steps seem valid in themselves, but technically the states have a case—for they share sovereignty with Canberra in a compact that stems legally from London—and Whitlam might have consulted them more before steaming ahead.

Labor can never expect more than a modest majority under the present electoral system, and in the Senate (whose members did not all face the electors in 1972) it has no majority at all. A drop in the labor vote in the recent Victoria state election showed that opposition is substantial either to Whitlam's "high-handedness" or to the content of some of his reforms.

Yet his position is basically secure if only because the leader of the Liberal Party opposition, Billy Snedden, is far less impressive than Whitlam; a Gallup Poll last month showed Whitlam leading Snedden, 52 per cent to 37 per cent.

AN INDEPENDENT ALLY?

In foreign policy, the issue is whether Australia, as a small ally of the United States, can express its new nationalism by an independent line without bringing on a crunch.

Australia's basic foreign policy problem is to reconcile its history, as a white outpost founded to house excess British convicts, with its geography, as a southern footnote to Asia where the power of the West is in decline.

Until World War II Australia hardly had a foreign policy. It simply followed London and loyally sent troops to help fight Britain's wars without ever thinking there could be a war or crisis which was Australia's but not Britain's. Japan's attack on Australia jolted Canberra into some first steps toward a national foreign policy; a Labor government insisted on the return of Australian soldiers from the Middle East when Japan entered the war.

But during the 1950s and 1960s Liberal governments tended to follow Washington as unquestioningly as in more necessarily dependent days Australia had followed London. This policy came to a humiliating apogee in 1967 when Prime Minister Harold Holt cried out on the White House lawn, "All the way with LBJ." The Liberals had fused their country's European history and Asian geography by embracing the Asian policy of the leading Western power.

The collapse of LBJ's Asian policy and its replacement by the Nixon Doctrine pulled the rug from under Australian Liberals and helped Whitlam into office. Labor leaders had always opposed the Vietnam war, and their credibility with the voters rose as the debacle of the war intensified. Mr. Nixon's move to cut back U.S. commitments in Asia and encourage self-reliance set off an unraveling process in the region which scared the Liberals but gave Labor the chance to offer fresh, post-Cold War policies.

In the summer of 1971 Whitlam went to China to talk with Chou En-lai about the future of Asia. Liberals attacked him as an appeaser and a fellow-traveler. But it turned out that Henry Kissinger had supped in Peking the very week Whitlam did, and no sooner had Whitlam returned to Australia than Mr. Nixon announced that he himself would soon go to Peking, just as Whitlam had done. The Liberals were aghast and from that time onward they seemed always on the defensive in foreign policy.

THE BOMBING PROTEST

Under Whitlam, a threefold pattern of new emphasis has emerged.

The new government has launched a more independent foreign policy than Australia has ever had.

It does not share the previous view that Australian foreign policy should be based on loyalty to a protector. First, because the United States after Vietnam is not considered an all-sufficient protector for any small land in Asia. Second, because Australia has its own distinctive interests and values. Third, because the U.S.-Australia alliance is today as important for Washington as for Canberra.

The Labor government does not put in question the ANZUS alliance with the United States and New Zealand. What the Australian leaders do not accept is that ANZUS and SEATO are indivisible, as William Rogers has argued to Labor party leaders, or that a country allied to the United States must support all U.S. policies, as Kissinger has implied in saying that Whitlam cannot be selective about the U.S. alliance.

The flare-up between Washington and Canberra over the bombing of Vietnam last Christmas provided the first illustration of these problems. Whitlam sent Mr. Nixon a cable of protest which the administration considered "unforgivable" because it appeared to put Washington and Hanoi on the same moral footing. There was an "unofficial" reply which scorched the paper with language Canberra officials were quite unused to. Irritation spiraled as some Australian ministers, including the influential number three man in the government, Minister of Trade James Cairns, condemned Mr. Nixon harshly.

The Vietnam cease-fire reduced the tension, and the prospects are better now for mutually beneficial relations, though strains will continue over foreign investments and the two important U.S. communications bases in Australia.

Events will hinge partly on Whitlam's skill in reining in Labor's left wing, which wants to end the alliance totally, and on his avoiding the impetuosity which led him in May to speak on the "parlous" state of Mr. Nixon's presidency, and to suggest that Watergate would not have occurred if the executive was answerable to the legislature as it is in Australia. But the important point is for Whitlam to convince Washington that his nationalism is representative of a deep new mood in Australia.

A second foreign policy change in Canberra is that a policy of hope is replacing a policy of fear.

Australian governments have often fallen prey to fears of undefined dangers and consequently allowed defense policy to smother foreign policy. Dean Acheson noted after contact with Liberal Australian leaders that they felt "worried by the unknown."

There were barren concomitants to this fear and defensiveness: racism in immigration policy; a spooky view of the Asian map which, noting Communists to Australia's north, appeared to feel that because of gravity if for no other reason "they" had an inclination to sweep southward; warmth toward South Africa and Rhodesia.

Some critics in Australia and others like the premier of Singapore fear a Labor government will be isolationist. Yet Whitlam's first six months have seen active diplomatic engagement with more of Asia (and Europe) than ever before. As well as sending an ambassador to Peking, Australia has taken steps toward dealing with North Korea and become the first belligerent on Saigon's side in the Vietnam war to establish full diplomatic ties with Hanoi.

Whitlam has established diplomatic ties with East Germany, warmed up relations with India by a fruitful trip to Delhi in June, and effectively expressed the deep feelings in the Pacific about French nuclear tests by persuading the International Court of Justice to enjoin Paris to suspend testing plans.

The new government believes that Australia need not be fearful since no one threatens it, or has territorial or historical grievances against it, or even has a common border with Australia proper. Stress should be on seeking economic progress and maybe neutralization in the region.

Whitlam shares the view Mr. Nixon expressed six years ago that SEATO is "an anachronistic relic," and like many other leaders in the region he considers ASPAC (the Asian and Pacific Council) bankrupt. He hopes for the emergence in post-Vietnam Asia of a new regional forum "genuinely

representative of the region and without ideological overtones."

A third new emphasis is that Whitlam's foreign policy is more influenced by progressive social values than Australian policy has previously been.

No Australian prime minister abroad has ever spoken as frankly on race and colonialism as Whitlam did during an Indonesian trip in February. Unlike Indonesia, he said, Australians "are the descendants of colonial authority. In all too sad a sense we are the colonizers." Then he vowed that his government "will strive mightily to right the wrongs that have been done to the original Australians."

Australia has a bad record on racism in its immigration policy, and on its treatment of the black aborigines who make up about 1 per cent of the population. But in the late 1960s the Labor Party moved ahead of the Liberals on this matter, and no stance of the new government has been more forthright than that on racism.

Aborigines' claims to ancient tribal lands, crucial to their future, have now been granted. Prospective immigrants from Asia or elsewhere are now considered on exactly the same footing as those from Europe.

Whitlam has made numerous other changes on race questions. Citizens of New Zealand who come from Samoa or other nonwhite territories may now enter Australia on the same basis as white New Zealanders; Canberra will not allow any "racially selected" sports team to enter or even pass through Australia; and so on.

Other foreign policy areas are also taking on an unaccustomed moralism under Labor. Australia's colony of New Guinea is being rushed even beyond its wishes toward independence, since Whitlam considers it morally objectionable for one race or nation to rule another; and Australia will phase out its garrisons in Asia, since the prime minister thinks it "unnatural" for armed forces of one nation to be stationed in another.

A NEW COURSE

Whitlam will not lack problems in foreign policy and some already impinge. It may prove better to seek an Asian regional forum of the lesser powers alone, rather than one with both China and Japan in it (as Whitlam hopes); in any case Australia will have to tread delicately, for no change of government alters the fact that Australia is in Asia but not fully of it.

On the crucial question of the U.S. alliance, it may prove technically impossible, even if it is politically possible, to secure the "joint control" over U.S. communications sites which the government is deeply committed to.

Yet Whitlam comes to Washington having made an impressive start in charting a new course for Australia, and no future government is likely to reverse it. He is giving this quickly changing country a vigorous, unracist, non-ideological voice in Asia, which is bound to increase its influence. And he is seeking a new independence for Australia in its ties with the United States, which the economic strength and national feeling Down Under make logical, and which the changed U.S. role in Asia makes inevitable.

A TERSE, TOUGH AUSSIE "PM"

Edward Gough Whitlam was born in Melbourne 56 years ago, spent a formative period in Canberra which gave him a sense of the nation rare among politicians in a far-flung and states-minded land, then studied law in Sydney and settled down there. He has the bluff manner of a Sydney man (from where Labor leaders often come) rather than the dry manner of a Melbourne man (from where Liberal leaders often come).

Whitlam has a dominant air because of his height of 6 feet 4 and wide blue eyes, and the sense you get of a man stowing away for future use every available item he sees and hears, a man who almost never makes a casual remark.

These traits lead critics to call Whitlam "arrogant" and "lacking in warmth," yet they also explain his success. He believes in taking thought in order to improve society, and he hounds ideas to the point of action. For years he criss-crossed the country with Fabian zeal to diagnose ills first-hand, listened to a wide range of reforming opinion and matched his ideas with a game plan for winning power.

His visit to China in 1971 could have been a relaxing trip compared with Whitlam's way of filling a day in Australia. But between talks with Chou En-lai and other Chinese leaders, he plunged into social or historical investigation, at all times engaged with China as if no other country existed.

His staff can find Whitlam's mental fertility exacting. I have seen him in a car pull from his pocket an envelope on which he had scrawled facts and statistics about pensions, explain it with lightning speed to an aide, requisition for two days hence a full-length speech spelling it out, and then say firmly but without anger as he hopped out of the car to enter a TV studio: "And I don't want a lousy job like the last one you did on social services."

Whitlam's mental arrogance explains why his acts are often more radical than the window-dressing of his ideology would suggest. In a party which contains some automatic quasi-Marxists who cry fearsome slogans from the rooftops but wilt when it comes to hammering out policies which a majority of Australians can support, Whitlam has been called right of center. A lot of Australians are surprised that Whitlam is now pressing some measures which please left-wingers with whom he shares few natural vibrations.

Yet by his blend of social radical impulses and the courage of reason he has long cut through the distinction between quasi-Marxist left and "Gaitskellite" right in the Labor Party. It is on social values, not on fundamental economic ideas, that Whitlam is left-wing.

When the Labor Party got tied up in debilitating internal feuds over ideological matters, Whitlam tried to replace posturing with detailed work on policy. In the mid-1960s, when still deputy leader, he fought fiercely with the party's left-wing apparatus in the important state of Victoria (some wanted Whitlam expelled from the party).

He has an impetuous streak—he once hurled water on a Liberal minister in Parliament, and smashed a telephone on his desk after failing to get his way—and being a man of few self-doubts he risked his career by calling the leaders of his party "12 witless men."

Whitlam was not always good at raw intra-party politics in the 1960s, in part because smoothing feathers and counting heads was not his cup of tea (he has mellowed since). But the sheer impressiveness of his articulation of policy helped carry the day against the Victoria left-wingers.

Australian social mores range all the way from would-be aristocratic to earthy proletarian, and Whitlam's new team really is *new*. At the prime minister's residence soon after the new government took over, one felt a trace of shock on the part of servants used to waiting on "upper class" Liberal ministers. Whitlam was sitting in a bright floral sport shirt with a visitor on the veranda, while others came and went in casual attire and even swimming clothes. Mrs. Whitlam drifted by with an armful of clothes for the laundry. Crisp young aides were at work on documents in a gregarious manner, and their laughter rent the summer morning air.

A phone call drew the prime minister, and while he was away a prim lady who would fit in well in London clubland brought coffee in a gleaming silver pot. Pouring a cup for the visitor, she looked at the prime minister's empty chair and said distantly, "I won't pour that gentleman's because it will get cold." She must have known who "that gentleman" was, but maybe she was not yet quite able to call him "the PM."—Ross TERRILL.

[From the Baltimore Sun, July 30, 1973]

AUSTRALIA'S NEW PRIME MINISTER

President Nixon plays host today to a new breed of Australian prime minister, a man who seems to understand more clearly than his predecessors what policies are dictated by his country's geography. The visitor is Gough Whitlam, whose first half-year in power has transformed Australia's approach to foreign affairs. By condemning U.S. bombing in Indochina, recognizing Peking, rejecting policies smacking of white racism and giving priority to regional neighbors, particularly Papua New Guinea, Mr. Whitlam has shown a good sense of location.

Australia, after all, is not "down under" (down under from what?) but an Asian power, a Pacific power of great potential. The new prime minister has not particularly pleased the Nixon administration with his new directions. But he put his case well when he stated recently: "We recognize that as Australians we shall win no respect, nor shall we help out traditional friends in their own difficulties of withdrawing from military commitments or readjusting to the needs of a changing world, if our foreign policies remain an echo of other nations, taking no account of our own vital interests in security and trade or the sensibilities and aspirations of our neighbors."

President Nixon will find no echo in Mr. Whitlam, no servility in the hope of securing American guarantees against the big bad world so close to Australia's doorstep. Those days are gone for good. Nor, if the omens are correct, will he find a man delighting in the pulling of Uncle Sam's whiskers—an indulgence still practiced by extreme elements in his Labor party. Mr. Whitlam has been politician enough, after his Christmas outburst about the Hanoi-Haiphong bombings, to try to put things right with Washington.

In return, Mr. Whitlam probably would like a gesture signifying Australia's sovereignty over the U.S. Navy installation at North West Cape, an installation of great importance to Polaris operations in the Indian Ocean. This is an opportune moment for Mr. Nixon to make such a gesture. U.S.-Australian relations, based as they are on genuine friendship and common interests, certainly can surmount transistory irritations having already survived a period of ardent imbalance.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HELMS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 5, with the understanding that there will be no action on the bill today, other than opening statements.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 5) to promote the general welfare.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order entered last week, on tomorrow after the routine morning business the Senate will proceed to the consideration of S. 1560, the Emergency Employment Act of 1971, under a time limitation.

AUTHORIZATION TO TAKE UP S. 1880 OR OTHER MEASURES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 1560 tomorrow, it be in order for the leadership to move either to take up S. 1880, a bill to protect hobbyists, or to return to the consideration of S. 5, or to take up any other measure which has been cleared for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO TAKE UP S. 1033, TO MAKE IT THE UNFINISHED BUSINESS FOR WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the bill has not been called up prior thereto, that at the conclusion of business tomorrow the Senate proceed to the consideration of S. 1033, the so-called timber export bill, for the purpose of making it the unfinished business for Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO TUESDAY, JULY 31, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS JAVITS, HUDDLESTON, AND SCOTT OF VIRGINIA, FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR SENATE TO PROCEED TO THE CONSIDERATION OF S. 1560, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes, after which the distinguished Senator from the Kentucky (Mr. HUDDLESTON) be recognized for not to exceed 15 minutes, following which the distinguished Senator from Virginia (Mr. SCOTT) be recognized for not to exceed 15 minutes, and that there then be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate proceed, under the order previously entered, to the consideration of S. 1560.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HANSEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the order previously entered for the recognition of the distinguished junior Senator from Wyoming (Mr. HANSEN) on Wednesday be vacated and that he be recognized on tomorrow, following the remarks of Mr. SCOTT of Virginia, for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The Senate continued with the consideration of the bill (S. 5) to promote the general welfare.

Mr. MONDALE. Mr. President, S. 5, the pending measure, is a bill which has passed the Senate in almost identical form in two previous Congresses. It is the product of extensive hearings, extensive committee and Senate deliberation, and I would hope that it would pass overwhelmingly and that in this Congress we might see action in the House.

This measure seeks to establish a Council of Social Advisers in the office of the Presidency and require that council to prepare an annual social report which would be referred to the Joint Economic Committee and to the respective Labor and Public Welfare Committees of the House and the Senate. The council would have other responsibilities such as the establishment of an effort toward establishing social indicators to measure the social health of this country.

Mr. President, one of our most illuminating witnesses was Mr. Joseph Califano, who, as many know, served as President Johnson's key domestic counselor. Following his period of service in that position, he testified before our committee upon the almost total lack of information upon which we make social policy. Mr. Califano said:

> The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate, or expand vast social programs more nearly resembles the initiative judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system.

Support for this institution has come from a broad range of leaders in the field of human development and from persons who have been in government, as well as the academic community. As a matter of fact, they have repeatedly and strongly urged the creation of this Council of Social Advisers.

In the development of this legislation I have been privileged to have the long-term support and the creative contributions of the distinguished senior Senator from New York (Mr. JAVITS), who has cosponsored this measure from its beginning and who has been so helpful over the years in trying to develop it, improve it, and strengthen it.

The present measure, in title II, contains a series of sections under the heading "National Goals and Priorities." It seeks to establish in the Congress an office to better prepare the Congress when dealing with the broad objectives of goals and priorities.

This measure was originally introduced in separate bill form by the distinguished Senator from New York (Mr. JAVITS) and is now found as title II in S. 5.

Together these titles are designed to do something about the present anarchy in the field of human programs.

We have a nation in which we spend billions in education, billions in health, billions on poverty, and billions on var-

ious other human programs. Yet, when we ask those involved in these programs whether they are achieving the results intended and whether they are doing so in the most efficient way, and, indeed, whether they are counterproductive, one is often at a complete loss to obtain that essential information upon which any intelligent government should base its decisionmaking, as one of our witnesses said, the American Government seems to be proceeding on the theory of substandardization, by which we are doing better and better in little things and worse and worse in big things.

This council is designed to try to better analyze and evaluate and plan social programs so that we might better understand how we seek to educate our children, so that we might know better how well we are doing at this task of education, so that we might know better how to improve and make more efficient the effort at education.

The same is true with our efforts in the field of health, in the field of manpower, in the field of employment, and in the other areas, housing and the rest, which are essential services for a healthy and developing people.

I have been in the Senate now for more than 9 years. I guess that I have served on as many or more human problem committees and subcommittees than any other Senator, or at least as many as any other Senator. I am constantly surprised and sometimes shocked when we are holding hearings on programs—some of which cost several hundreds of millions of dollars a year—when I ask those who are in charge of the programs to tell us what they are accomplishing and what we are getting for our money. Usually they can fill us full of statistics and information that really is not helpful. They can tell us how many bricks there are in a building and how many lunches are served in the hot lunch program. However, if we ask them how many children are being educated, often they do not have the slightest idea. The same thing is true with respect to health and manpower programs. What might be called the hot facts concerning what is being achieved through these programs is often not available.

Yet this very condition of anarchy and uncertainty is becoming a strong force in the hands of those who seek to counsel the Government and the people to give up this effort and to conclude that there is no hope and that we should stop trying to deliver the essential services needed for the social health of our people.

I can think of nothing that would be more tragic to our country than that, for we know that despite our wealth, despite our strength, and despite the magnificence of our great country, there are still millions and millions of Americans who in no meaningful way share in the fullness of American life.

The programs that this council would seek to better understand and guide are the very programs on which social justice in our Nation depend. And this institution could contribute enormously to a more sophisticated, responsible, balanced, efficient, and extraordinary approach to human problems.

Mr. President, I understand that the distinguished Senator from New York wishes to comment upon this bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to state that I support fully both titles in the bill.

First, I wish to affirm my support of the need for the Senator from Minnesota's Council of Social Advisers as representing a recognition of the development of our society beyond the stage where economic advisers can do all that needs to be done.

Mr. President, in many cases the question is whether we are spending money most effectively and in the most wise manner. The Council on Economic Advisers will tell us what they think we are going to spend and perhaps what to spend in particular areas as a matter of economics. However, there is quite a difference between spending money in the desegregation of schools and spending money to enhance quality education. There is a far different thrust and a far different end result in saying that different means need to be used.

Accordingly, there are questions of blending manpower and training into public service jobs and welfare problems arising out of able-bodied people who are unable, for one reason or another, to get the training or to match the training up with a job.

This again goes far beyond the problem of money, it involves the redemption of people from the endemic cycle of poverty which comes ahead of social and economic problems.

I appreciate the fact that one of the most potent anti-poverty measures we have adopted is the providing of legal services for the poor.

All of these things represent areas in which the Council of Social Advisers could be very useful to the direction of recent efforts.

From the point of view of the amounts involved compared to the end results, the fact is that with a Federal budget in the area of $250 billion a year, we really should not be talking about the cost of an agency or the proliferation of an agency that will accomplish infinitely more in the years to come with respect to efforts in the national policy and the ability to make wiser decisions than we have heretofore in many cases.

I have from the beginning supported the effort of the distinguished Senator from Minnesota, and he has in turn done me the honor of supporting me in what is really the corollary activity to the one which he wants to be pursued, that is, the advice to Congress respecting national goals and priorities.

Mr. President, I suppose if one were to characterize my whole career here, it has been to contribute to giving the Congress a personality of its own, and to equipping it, through the efforts of its Members, to be really a coordinate branch of government, with innovation, decisionmaking, full partnership in national policy and the implementation of that policy, and against simply yielding questions for decision to the President because it was easier to step away from them than to wrestle with them.

The national goals and priorities concept which I introduced for the first time in December of 1969 with the Senator from Minnesota (Mr. MONDALE) as my principal cosponsor was exactly along that line. That was early, Mr. President, and national traumas, including Watergate, since then have now convinced us of the absolute necessity for an independence and an autonomy which we have so long yielded by either misfeasance or nonfeasance.

Mr. President, what the National Goals and Priorities Office is intended to do is to equip Congress with its own Office of Management and Budget, just like the President has, so that we might hold our own in these decisions regarding allocations and priorities, all within the context of appropriate national goals.

There is some history in this matter. General Eisenhower, when he was President, proposed a Commission on National Goals. We have had efforts in that direction, with special thrusts like the stockpiling of supplies of raw materials to keep the industrial machine going, the famous "Paley" Commission of some years ago.

But nevertheless, never has Congress been able to hold its own with respect to advisory fact-finding machinery for this purpose.

Mr. President, whereas title I remains pristine, pure, and unpassed, and needs to be dealt with as an original, innovative concept, title II, the one I have authored, has been overtaken by events. It is an idea whose time has come, and it is actually in process of being put into effect right now.

We had a special committee headed by the Senator from Arkansas (Mr. MCCLELLAN). When we were appalled by the inability to put on and administer a ceiling on the budget ourselves, we appointed a special committee to look into that question. It made an admirable report. I differed with some of it, but on the whole it was an admirable effort to begin to deal with that question.

At that point, a legislative standing committee on which I serve as the second ranking member was called upon, quite properly, to take over the Government Operations Committee. In point of seniority I am the ranking member, but I gave it up to the Senator from Illinois (Mr. PERCY) because I am also the ranking member of another committee, Labor and Public Welfare.

This committee is now considering legislation to implement the recommendation of the special committee and it is now before the subcommittee on Budgeting, Management, and Expenditures on which Senator METCALF is the chairman and the ranking member is the Senator from Ohio (Mr. SAXBE). This measure will come before the whole committee, of which I am a member.

I have discussed with the chairman of that committee, and will discuss with

Senator PERCY, who is the ranking member, and the ranking member and chairman of the subcommittee, the advisability and perhaps even the desirability, instead of letting this title 2 proceed on its own, of referring it to the Government Operations Committee, so that it may be appropriately wrapped into the overall machinery for dealing with budget reform, which we will undoubtedly report out to the Senate. I shall be consulting with the Parliamentarian about the technique for doing that, which I am confident can be done.

Mr. President, when that is done, which I hope will be tomorrow, we have one advantage, in respect of S. 5, for the first time, and that is that it will become an instrument for a single purpose, to wit, the Council of Social Advisers; and I think that is only fair to Senator MONDALE, in respect to his very gifted initiative. I shall support it for the reasons I have stated, and I hope to contribute to that concept by allowing the recognition of events which have actually occurred and are occurring to remove from the bill what represents another although related concept.

So. S. 5 would go forward as a single instrument for a single highly desirable purpose.

At this point I should like, first, to pay my respects to the Senator from Minnesota (Mr. MONDALE) for his long struggle and endeavor to bring this idea into law; second, to express my appreciation for his having accommodated my idea up to now as an element of his bill; and, third, to assure him, notwithstanding the divorce of the two for very good reasons, which I have stated as a matter of legislative efficiency, of my continued indefatigable and convicted support of S. 5 as it is now represented by title I.

Mr. MONDALE. I thank the distinguished Senator from New York for those most gracious statements.

As I stated earlier, S. 5 has been the product of his efforts as well as my own. It was originally introduced three Congresses ago.

While title II and title I appear to go together, they are both being considered at the same time because they are both responsible forms which are built in for human development and security. They are program areas which the Senator from New York and I have worked on together for as long as we have been together since coming to the Senate, and which the committee reported and is responsible for.

The Council of Presidential Advisors tries to bring together the finest social scientists in America to advise the President, to advise Congress, and to advise the American people through the social report as to their appraisal of the effectiveness and the wisdom of trying to establish a system of social indicators that will permit us better to quantify and better to expand what we are doing, because it is a massive task to try to improve the social health of the people of the country.

In a real sense, title II, dealing with priorities, tries to do the same thing. It tries to deal with the present problem of Congress probing the archaic question of budgets, so that we might arrange our sources and apply them in the most efficient, effective way, so as to enable Congress, as the Senator puts it, as a coordinate branch to do a better job than it is doing today.

As the Senator points out, in a real sense the proposal offered by the Senator from New York is a part being incorporated in a broader sense in the proposals coming out of a committee on the budget and more recently the Government Operations Committee.

I, too, have some objections to some of the proposals, but I think the basic idea was first found in what is now known as title II. I hope that many of its provisions may be included in the proposal coming out of the Government Operations Committee.

Mr. JAVITS. I believe they will, I may say to the Senator, but also I think the fact that they will and the fact that legislation is almost ready on that score indicates that that is precisely what he is proposing.

It is one thing to know how much money we are going to have, but we also have to know how to divide it. The question of division is not a financial question strictly; it is a question of high policy in the social field. We are entitled to the best kind of advice on that high policy, which will point very important directions to the country. I think we have good advice in the machinery of the Council of Economic Advisers to deal with housing, technicalities involving tax credits, the effect upon the system of various methods of technicians, organizational problems, and the organization of problems of worker compensation, worker morale, and so forth. But I do not think the sophisticated nature of decisions on social policy are encompassed within that. They try to do it. But it is hardly their business. They are hardly trained for it. So the fact that one part of the bill is getting settled should help highlight the critical importance of the creative contribution of the Senator from Minnesota to the governmental machinery in the Council of Social Advisers. I hope very much that we can get the effect of what he wants.

Mr. MONDALE. I thank the Senator again. I suppose there is no person who has spent more man-years in listening to testimony affecting human problems than has the distinguished Senator from New York (Mr. JAVITS), whether it be on manpower, poverty, the whole range of educational programs, health programs, and all the rest.

I am sure he shares with me the frustration one feels in trying to find out what any responsible Government must know about the programs in terms of how well they are doing, what are they actually accomplishing, how efficiently are the resources being applied, or are there better ways to do it. Time and time again we have asked these questions, and many times, tragically, we cannot receive the answers because no one is available to answer them, or they come to us in a way that is not usable, just as in the defense sector, many times we find that it is difficult to obtain the central facts that one needs to evaluate. I am not talking about this administration. I am talking about the recurring practice by which it is difficult to obtain critical information regarding these programs.

I think this is one of the contributing factors to the growing sense of despair we are hearing today, even from some of the best universities, which seems to suggest that democracy lacks the capacity efficiently or effectively to deliver human services.

For example, we have heard this of late in the educational field, that there is no use, no way of delivering quality education to the poor or the disadvantaged. A book written by Dr. James did not say exactly that, but the thrust of his book was one of despair over the capacity of a free society to educate its own people.

That feeling is enforced by the way our present management of the programs is handled, the present way in which Congress approaches them, and the present way the Executive approaches them, all of which helps to contribute to the feeling that, somehow, they are not being managed properly.

Mr. JAVITS. Mr. President, I agree with the Senator from Minnesota.

We desperately need machinery. The Joint Economic Committee has done a very commendable job on looking into questions like the welfare question, but they cannot be expected to go into the whole range of social and budgetary questions, and we need an independent office to do it.

And a busy committee like the Committee on Labor and Public Welfare itself cannot deal with all the priority issues and should not, as they cut across jurisdictional lines. That is a simple illustration of why it is necessary to segregate out these problems and deal with them appropriately.

Mr. MONDALE. I am most grateful to the Senator from New York for his comments. I gather that tomorrow we may be moving to refer title II to the Senate Committee on Government Operations and, hopefully, we can act once again on S. 5, and, again hopefully, this time the House will respond.

Mr. JAVITS. I thank my colleague.

Mr. MONDALE. Mr. President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at noon.

The following Senators will be recognized, each for not to exceed 15 minutes and in the order stated, following the recognition of the two leaders or their designees under the standing order: Mr. JAVITS, Mr. HUDDLESTON, Mr. SCOTT of Virginia, and Mr. HANSEN.

There will then be a period for the transaction of routine morning business,

for not to exceed 15 minutes, with the usual 3-minute limitation on statements therein.

Following routine morning business, S. 1560, the Emergency Employment Act of 1971, will be taken up under a time limitation. Yea-and-nay votes will occur on amendments thereto and presumably on final passage.

Upon disposing of S. 1560, the Senate either will take up S. 1880, a bill for the protection of hobbyists, or will go back to S. 5, the measure which is presently pending, a bill to promote the public welfare. Yea-and-nay votes could occur.

I wish to make this clear: S. 1880 and S. 5 may both be taken up during the afternoon, depending upon what the time is and the circumstances, and so forth, but not necessarily in the order listed. Yea-and-nay votes could occur in relation to either or both of those bills.

At the close of business tomorrow, S. 1033, the Export Administration Act of 1969, will be laid before the Senate, so as to make it the unfinished business on Wednesday.

Mr. President, I repeat, yea-and-nay votes will occur on tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:13 p.m. the Senate adjourned until tomorrow, Tuesday, July 31, 1973, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 30, 1973:

DEPARTMENT OF DEFENSE

William Keith Brehm, of California, to be an Assistant Secretary of Defense, vice Roger T. Kelley, resigned.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Marshall Trammell Mays, of South Carolina, to be President of the Overseas Investment Corporation, vice Bradford Mills, resigned.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

James B. Gregory, of California, to be Administrator of the National Highway Traffic Safety Commission, vice Douglas W. Toms, resigned.

CONFIRMATION

Executive nominations confirmed by the Senate July 30, 1973:

ENVIRONMENTAL PROTECTION AGENCY

Alvin L. Alm, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Monday, July 30, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let this mind be in you which was also in Christ Jesus.—Philippians 2: 5.

Eternal Father of our spirits, we enter this new week challenged by the daily duties which demand our attention and the persistent problems that perplex our people. Grant that we may realize that the hour has come when we must strengthen the moral and spiritual fiber of our Nation if we are to truly minister to the needs of our citizens and continue to be a beacon light for freedom among the nations of the world.

May our differences in party affiliation not make a difference in the principles which unify us as a nation and call us to work together for the common good.

Help us to seek Thy truth and Thy love that we may build a greater nation and a better world where people shall live in peace with justice, for freedom, and by good will.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8510) entitled "An act to authorize appropriations for activities of the National Science Foundation, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8760. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8070) entitled "an act to authorize grants for vocational rehabilitation services, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. CRANSTON, Mr. WILLIAMS, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. HATHAWAY, Mr. STAFFORD, Mr. TAFT, Mr. SCHWEIKER, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8760) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBERT C. BYRD, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. PASTORE, Mr. BIBLE, Mr. MANSFIELD, Mr. CASE, Mr. YOUNG, Mr. COTTON, Mr. STEVENS, Mr. MATHIAS, and Mr. SCHWEIKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1341. An act to provide for financing the economic development of Indians and Indian organizations, and for other purposes;

S. 1887. An act to provide for the appointment of alternates for the Governors of the International Monetary Fund and of the International Bank for Reconstruction and Development;

S. 1993. An act to amend the Euratom Cooperation Act of 1958, as amended;

S. 2060. An act to authorize the Secretary of Transportation to act to assure the continuance of rail services in the northeastern United States, and for other purposes;

S. 2075. An act to authorize the Secretary of the Interior to undertake a feasibility investigation of McGee Creek Reservoir, Okla.;

S. 2166. An act to authorize the disposal of opium from the national stockpile;

S. 2239. An act relating to intervening in and influencing the political affairs of foreign countries or political subdivisions thereof; and

S. Con. Res. 42. Concurrent resolution providing for a conditional adjournment of the two Houses from August 3 until September 5, 1973.

NATIONAL REGISTERED NURSES DAY

(Mr. BROWN of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, I am pleased to introduce a joint resolution to authorize and request the President to issue a proclamation designating one day during each year as "National Registered Nurses Day."

Recognition of the contribution of nurses to the health and well-being of our people is long overdue. Nursing services are, in the words of a paper by the Ad Hoc Nursing Impact Committee, "the keystone of health care delivery." Nursing provides the needed element of humanistic care based on personal health